

CHAPTER 5 CUSTOMS PROCEDURES

ARTICLE 5.1 SCOPE

This Chapter shall apply in accordance with the Parties' respective domestic laws and regulations, to customs procedures required for clearance of goods traded between the Parties.

ARTICLE 5.2 GENERAL PROVISIONS

1. The Parties recognise that the objectives of this Agreement may be promoted by the simplification of customs procedures for their bilateral trade.
2. Customs procedures of the Parties shall conform, where possible, with the standards and recommended practices of the World Customs Organisation.
3. The customs administrations of the Parties shall periodically review their customs procedures with a view to their further simplification and the development of further mutually beneficial arrangements to facilitate bilateral trade.

ARTICLE 5.3 PUBLICATION AND AVAILABILITY OF INFORMATION

1. Each Party shall ensure that its laws, regulations, procedures, and administrative rulings of general application governing customs matters are promptly published on the Internet.
2. To the extent possible, each Party shall publish in advance any regulations of general application governing customs matters that it proposes to adopt and provide interested persons within its territory with the opportunity to comment before adopting them.
3. Each Party shall 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 on such inquiry points.
4. 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 methodologies.

ARTICLE 5.4 PAPERLESS TRADING

1. The Parties shall endeavour to provide an electronic environment that supports business transactions between their respective customs administrations and their trading communities.

2. The Parties shall exchange views and information on realising and promoting paperless trading between their respective customs administrations and their trading communities.

ARTICLE 5.5 RISK MANAGEMENT

1. Each Party shall adopt a risk management approach in its customs activities based on its identified risk of goods in order to facilitate the clearance of low-risk consignments, while focusing its inspection activities on high-risk goods.

2. The Parties shall exchange information on risk management techniques adopted by their customs administrations.

ARTICLE 5.6 SHARING OF BEST PRACTICES

The Parties shall facilitate initiatives for the exchange of information on best practices in relation to customs procedures.

ARTICLE 5.7 REVIEW AND APPEAL

1. Each Party shall ensure that the importers and exporters in its territory have access to:
 - (a) administrative review by an authority supervising the customs administration; and
 - (b) judicial review of the determination taken at the final level of administrative review, in accordance with the Party's domestic laws.
2. Notice of the decision on appeal, together with the reasons for such decision, shall be given to the appellant in writing.

ARTICLE 5.8 SINGLE WINDOW

1. To avoid repeated submissions of documentation and/or data requirements for exportation, importation and transit to different authorities or agencies, each Party shall maintain or establish a single window⁷ through which the aforementioned documentation and/or data requirements only have to be submitted online once in electronic form. The single window shall undertake onward distribution of the aforementioned documentation and/or data requirements to the relevant authorities or agencies which require them. After the examination by the relevant authorities or agencies of the documentation and/or data, the single window shall notify the results to the applicants in a timely manner.

⁷ A single window is defined as an electronic online facility that allows parties involved in trade and transport to lodge standardised documentation and/or data with a single entry point to fulfil all import, export, and transit-related regulatory requirements.

2. In cases where documentation and/or data requirements have already been received by the single window, the same documentation and/or data requirements shall not be requested by other authorities or agencies except in urgent circumstances and other limited exceptions which are made public.

3. The Parties shall use information and communication technology to support the single window.

ARTICLE 5.9 ADVANCE RULINGS

1. Each Party shall provide, through its customs administration and in accordance with provisions laid down by its domestic laws and regulations, for the issuance of written advance rulings to an importer in its territory or to an exporter or producer in the other Party's territory concerning tariff classification, questions arising from the application of the Customs Valuation Agreement, and the qualification of a good as an originating good under this Agreement.

2. Each Party shall adopt or maintain procedures for advance rulings, which shall:

- (a) provide that an importer in its territory or an exporter or producer in the territory of the other Party may apply for an advance ruling before the importation of goods in question;
- (b) require that an applicant for an advance ruling provide a detailed description of the goods and all relevant information needed to issue an advance ruling;
- (c) provide that its customs administration or the relevant governmental authority may, within a specified period, request for the additional information required in order to have all the relevant information needed;
- (d) provide that any 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 its customs administration shall issue the advance ruling expeditiously, and in any case within ninety (90) days of the receipt of all necessary information.

3. A Party may reject requests for an advance ruling where the:

- (a) additional information requested by it in accordance with subparagraph 2(c) is not provided within a specified time; or
- (b) facts and circumstances forming the basis of the advance ruling are the subject of administrative or judicial review.

4. Each Party shall provide that advance rulings shall be in force from their date of issuance, or another date specified in the ruling, provided that the facts or circumstances on which the ruling is based remain unchanged.

5. A Party may modify or revoke an advance ruling upon a decision or administrative act that the ruling was based on an error of fact or law, the information provided is false or inaccurate, if there is a change in domestic law consistent with this Agreement, or there is a change in a material fact, or circumstances on which the ruling is based.

6. Where an importer claims that the treatment accorded to an imported good should be governed by an advance ruling, the customs administration or the relevant governmental authority may evaluate whether the facts and circumstances of the importation are consistent with the facts and circumstances upon which an advance ruling was based.

7. If a requester provides false information or omits relevant facts or circumstances relating to the advance ruling, or does not act in accordance with the ruling's terms and conditions, the importing Party may apply the appropriate measures.

ARTICLE 5.10 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 5.11 TEMPORARY ADMISSION OF GOODS

1. Each Party shall allow goods, as specified in its domestic laws and regulations, to be brought into its customs territory conditionally relieved from the payment of customs duties. Such goods shall be imported for a specific purpose, and shall be intended for re-exportation within a specified period and without having undergone any change except normal depreciation due to the use made of them.

2. Each Party shall, at the request of the person concerned and for reasons deemed valid by its customs administration, extend the time limit for temporary admission beyond the period initially fixed.

3. Each Party shall permit temporarily admitted goods to be exported through a customs office other than the one through which they were imported.

ARTICLE 5.12 COOPERATION

1. To the extent permitted by their domestic law, the customs administrations of the Parties should assist each other to ensure the smooth implementation and operation of this Chapter.

2. Subject to available resources, the customs administrations of the Parties may, as deemed appropriate, explore cooperation projects to:

- (a) further simplify and expedite customs procedures; and
- (b) share advance technical skills and experiences in usage of technology.

3. The Parties shall endeavour to establish mutual recognition of their Authorised Economic Operator programmes based on the *World Customs Organization Framework of Standards to Secure and Facilitate Global Trade*.

4. The Parties shall designate a contact point to carry out the above activities.

ARTICLE 5.13 CONFIDENTIALITY

Nothing in this Chapter shall be construed to require any Party to furnish or allow access to confidential information pursuant to this Chapter the disclosure of which it considers would:

- (a) be contrary to the public interest as determined by its legislation;
- (b) be contrary to any of its legislation including but not limited to those protecting personal privacy or the financial affairs and accounts of individual customers of financial institutions;
- (c) impede law enforcement; or
- (d) prejudice the competitive position of the person providing the information.