

CHAPTER SIX

CUSTOMS AND TRADE FACILITATION

ARTICLE 6.1

Objectives

1. The Parties recognise the importance of customs and trade facilitation matters in the evolving global trading environment. The Parties agree to reinforce cooperation in this area, with a view to ensuring that the relevant legislation and procedures, as well as the administrative capacity of the relevant administrations, fulfil the objectives of promoting trade facilitation while ensuring effective customs control.
2. To that end, the Parties agree that legislation shall be non-discriminatory, and that customs procedures shall be based upon the use of modern methods and effective controls to combat fraud and to protect legitimate trade.
3. The Parties recognise that legitimate public policy objectives, including in relation to security, safety and combating fraud, shall not be compromised in any way.

ARTICLE 6.2

Principles

1. The Parties agree that their respective customs provisions and procedures shall be based upon:
 - (a) international instruments and standards applicable in the area of customs and trade which the respective Parties have accepted, including the substantive elements of the Revised Kyoto Convention on the Simplification and Harmonisation of Customs Procedures, the International Convention on the Harmonized Commodity Description and Coding System, and the Framework of Standards to Secure and Facilitate Global Trade (hereinafter referred to as "SAFE Framework") of the World Customs Organization (hereinafter referred to as "WCO");
 - (b) the protection of legitimate trade through the effective enforcement and compliance of legislative requirements;
 - (c) legislation that avoids unnecessary or discriminatory burdens on economic operators, that provides for further trade facilitation for economic operators with high levels of compliance, and that ensures safeguards against fraud and illicit or damageable activities; and
 - (d) rules that ensure that any penalty imposed for breaches of customs regulations or procedural requirements is proportionate and non-discriminatory, and that their application shall not unduly delay the release of goods.

2. In order to improve working methods, as well as to ensure non-discrimination, transparency, efficiency, integrity and accountability of operations, the Parties shall:
 - (a) simplify requirements and formalities wherever possible with respect to the rapid release and clearance of goods; and
 - (b) work towards the further simplification and standardisation of the data and documentation required by customs and other agencies.

ARTICLE 6.3

Customs Cooperation

1. The Parties shall cooperate on customs matters between their respective authorities in order to ensure that the objectives set out in Article 6.1 (Objectives) are attained.
2. In order to enhance cooperation on customs matters, the Parties shall, *inter alia*:
 - (a) exchange information concerning their respective customs legislation, the implementation thereof, and their customs procedures, particularly in relation to the following areas:
 - (i) simplification and modernisation of customs procedures;
 - (ii) border enforcement of intellectual property rights by the customs authorities;

- (iii) transit movements and transhipment; and
 - (iv) relations with the business community;
- (b) consider developing joint initiatives relating to import, export and other customs procedures, as well as towards ensuring an effective service to the business community;
 - (c) work together on customs-related aspects of securing and facilitating the international trade supply chain in accordance with the SAFE Framework;
 - (d) establish, where appropriate, mutual recognition of their respective risk management techniques, risk standards, security controls and trade partnership programmes, including aspects such as data transmission and mutually agreed benefits; and
 - (e) strengthen coordination in international organisations such as the WTO and the WCO.

ARTICLE 6.4

Transit and Transhipment

1. Each Party shall ensure the facilitation and effective control of transhipment operations and transit movements through its territory.
2. The Parties shall promote and implement regional transit arrangements with a view to facilitating trade.

3. The Parties shall ensure cooperation and coordination between all concerned authorities and agencies in their respective territories to facilitate traffic in transit.

ARTICLE 6.5

Advance Rulings

Prior to the importation of goods into its territory, and in accordance with its legislation and procedures, each Party shall issue to traders established in its territory, through its customs authorities or other competent authorities, written advance rulings concerning tariff classification, origin, and any other matters as the Party may decide.

ARTICLE 6.6

Simplified Customs Procedure

1. Each Party shall provide simplified import and export procedures that are transparent and efficient, in order to reduce costs and increase predictability for economic operators, including small and medium sized enterprises. Easier access to customs simplifications shall also be provided for authorised traders, according to objective and non-discriminatory criteria.
2. A single customs declaration document or its electronic equivalent shall be used for the purpose of completing the formalities required for placing the goods under a customs procedure.

3. The Parties shall apply modern customs techniques, including risk assessment and post-clearance audit methods, in order to simplify and facilitate the entry and the release of goods.

4. The Parties shall promote the progressive development and use of systems, including those based upon information technology, to facilitate the electronic exchange of data among their respective traders, customs authorities and other related agencies.

ARTICLE 6.7

Release of Goods

Each Party shall ensure that its customs authorities, border agencies or other competent authorities shall apply requirements and procedures that:

- (a) provide for the prompt release of goods within a period no greater than that required to ensure compliance with its customs and other trade-related laws and formalities;
- (b) provide for pre-arrival processing (i.e. advance electronic submission and eventual processing of information before physical arrival of goods) to enable the release of goods on arrival; and
- (c) provide for the release of goods without the payment of customs duties, subject to the provision of a guarantee, if required according to the legislation of the Party concerned, in order to secure the final payment of customs duties.

ARTICLE 6.8

Fees and Charges

1. Fees and charges shall only be imposed for services provided in connection with the importation or exportation in question and for any formality required for undertaking such importation or exportation. They shall not exceed the approximate cost of the service provided, and shall not be calculated on an *ad valorem* basis.
2. The information on fees and charges shall be published via an officially designated medium, which may include the internet. This information shall include the reason for the fee or charge for the service provided, the responsible authority, the fee or charge that will be applied, and when and how payment is to be made.
3. New or amended fees and charges shall not be imposed until information in accordance with paragraph 2 is published and made readily available.

ARTICLE 6.9

Customs Brokers

The Parties agree that their respective customs provisions and procedures shall not require the mandatory use of customs brokers. The Parties shall apply transparent, non-discriminatory and proportionate rules when licensing customs brokers.

ARTICLE 6.10

Preshipment Inspections

The Parties agree that their respective customs provisions and procedures shall not require the mandatory use of preshipment inspections as defined in the Agreement on Preshipment Inspection, or any other inspection activity performed by private companies at the destination, before customs clearance.

ARTICLE 6.11

Customs Valuations

1. The Parties shall determine the customs value of goods in accordance with the Customs Valuation Agreement.
2. The Parties shall cooperate with a view to reaching a common approach to issues relating to customs valuation.

ARTICLE 6.12

Risk Management

1. Each Party shall base its examination and release procedures and its post-entry verification procedures on risk assessment principles and the use of audits, rather than examining each shipment in a comprehensive manner for compliance with all import requirements.

2. The Parties agree to adopt and apply their control requirements and procedures for the importation, exportation, transit and transhipment of goods on the basis of risk management principles which shall be applied to focus compliance measures on transactions that merit attention.

ARTICLE 6.13

Single Window

Each Party shall endeavour to develop or maintain single window systems to facilitate a single, electronic submission of all information required by customs and other legislation for the exportation, importation and transit of goods.

ARTICLE 6.14

Appeal Procedures

1. Each Party shall provide effective, prompt, non-discriminatory and easily accessible procedures to guarantee the right of appeal against the administrative actions, rulings and decisions by customs and other competent authorities that affect the importation or exportation of goods or that affect goods in transit.
2. Appeal procedures may include administrative review by the supervising authority and the judicial review of decisions taken at the administrative level in accordance with the legislation of the Parties.

ARTICLE 6.15

Transparency

1. Each Party shall publish or otherwise make available, including through electronic means, their legislation, regulations, and administrative procedures and other requirements relating to customs and trade facilitation.
2. Each Party shall designate or maintain one or more inquiry or information points to address inquiries by interested persons concerning customs and trade facilitation matters.

ARTICLE 6.16

Relations with the Business Community

The Parties agree:

- (a) on the importance of timely consultations with trade representatives when formulating legislative proposals and general procedures related to customs and trade facilitation issues; to that end, consultations shall be held between customs authorities and the business community, as appropriate;

- (b) to publish or otherwise make available, as far as possible through electronic means, new legislation and general procedures related to customs and trade facilitation issues prior to the application of any such legislation and procedures, as well as changes to and interpretations of such legislation and procedures; they shall also make publicly available relevant notices of an administrative nature, including agency requirements and entry procedures, hours of operation and operating procedures for customs offices at ports and border crossing points, and points of contact for information enquiries;
- (c) on the need for a reasonable time period between the publication of new or amended legislation, procedures and fees or charges and their entry into force, without prejudice to legitimate public policy objectives (e.g. changes in duty rates); and
- (d) to ensure that their respective customs and related requirements and procedures continue to meet the needs of the trading community, follow best practices, and that they remain the least trade-restrictive requirements and procedures possible.

ARTICLE 6.17

Committee on Customs

1. The Committee on Customs established by Article 16.2 (Specialised Committees) shall consist of representatives of the customs and other competent authorities of the Parties. The Committee on Customs shall ensure the proper functioning of this Chapter, Protocol 1 and any additional provisions relating to customs that the Parties may agree on. The Parties may examine and take decisions in the Committee on Customs on all issues arising thereunder.

2. The Parties may adopt recommendations and take decisions in the Committee on Customs on the mutual recognition of risk management techniques, risk standards, security controls and trade partnership programmes, including aspects such as data transmission and mutually agreed benefits, and any other issue covered by paragraph 1.
3. The Parties may agree to hold *ad hoc* meetings for any customs matter, including rules of origin, and any additional customs-related provisions as agreed between the Parties. They may also establish sub-groups for specific issues, where appropriate.

CHAPTER SEVEN

NON-TARIFF BARRIERS TO TRADE AND INVESTMENT IN RENEWABLE ENERGY GENERATION

ARTICLE 7.1

Objectives

In line with global efforts to reduce greenhouse gas emissions, the Parties share the objective of promoting, developing and increasing the generation of energy from renewable and sustainable non-fossil sources, particularly through facilitating trade and investment. To this effect, the Parties shall cooperate towards removing or reducing tariffs as well as non-tariff barriers, and shall cooperate on fostering regulatory convergence with or towards regional and international standards.