

CUSTOMS AND TRADE FACILITATION

Article 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 legislation and procedures fulfil the objectives of promoting trade facilitation while ensuring effective customs control.
2. To this 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 promote legitimate trade.
3. The Parties recognise that legitimate public policy objectives, including in relation to security, safety and fight against fraud shall not be compromised in any way.

Article 2

Customs cooperation and mutual administrative assistance

1. The Parties shall cooperate on customs matters between their respective authorities in order to ensure that the objectives set out in Article 1 are attained.
2. The Parties shall develop cooperation, *inter alia*:
 - (a) exchanging information concerning customs legislation, its implementation, and customs procedures; particularly in the following areas:
 - simplification and modernisation of customs procedures,
 - enforcement of intellectual property rights by the customs authorities,
 - facilitation of transit movements and transhipment;
 - relations with the business community,
 - (b) considering developing joint initiatives relating to import, export and other customs procedures including technical assistance, as well as towards ensuring an effective service to the business community;
 - (c) strengthening their cooperation in the field of customs in international organisations such as the Word Trade Organisation (WTO) and the World Customs Organisation (WCO).
 - (d) establishing, where relevant and appropriate, mutual recognition of trade partnership programmes and customs controls including equivalent trade facilitation measures.
3. The Parties shall provide each other with mutual administrative assistance in customs matters in accordance with the provisions of Protocol X.

Article 3

Customs and legislative procedures

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, 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 (hereinafter referred as “HS Convention”), the Framework of Standards to Secure and Facilitate Global Trade of the World Customs Organisation and the Customs Data Model of the World Custom Organization;
- (b) the protection of legitimate trade through effective enforcement and compliance of legislative requirements;
- (c) legislation that avoids unnecessary or discriminatory burdens on economic operators, that provides for further facilitation for operators with high levels of compliance, and that ensures safeguards against fraud and illicit or damageable activities;
- (d) measures, procedures and remedies shall be proportionate and non-discriminatory and in 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 and review requirements and formalities wherever possible; in respect of the rapid release and clearance of goods, inter alia allowing the release of goods, without the payment of customs duties, subject to the provision of a guarantee, if required, according to legislation of the Parties, in order to secure the final payment of customs duties.
- (b) work towards the further simplification and standardisation of data and documentation required by customs and other agencies;

Article 4

Release of Goods

Each Party shall ensure that its customs shall apply requirements and procedures that:

- 1. provide for the release of goods within a period no greater than that required to ensure compliance with its customs and other trade-related laws and formalities. Each party shall work to further reduce release times and release the goods without undue delay;
- 2. provide for advance electronic submission and eventual processing of information before physical arrival of goods, so-called pre-arrival processing, to enable the release of goods on arrival.

Article 5

Simplified Customs Procedures

1. Each Party shall provide for simplified customs procedures that are transparent and efficient in order to reduce costs and increase predictability for economic operators, including for 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 administrative document or electronic equivalent shall be used for the purpose of completing the formalities connected with 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 between traders, customs administrations and other related agencies.

Article 6

Transit and Transhipment

1. Each Party shall ensure the facilitation and effective control of transhipment operations and transit movements through their respective territories.
2. Each Party shall ensure cooperation and coordination between all concerned authorities and agencies in their respective territories to facilitate traffic in transit.

Article 7

Risk Management

1. Each Party shall base its examination and release procedures and its post-clearance audit procedures on risk assessment principles and 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 import, export, transit and transhipments control requirements and procedures for goods on the basis of risk management principles, to be applied to focus compliance measures on transactions that merit attention.

Article 8

Transparency

1. Each Party shall ensure that its customs and other trade-related laws, regulations and general administrative procedures and other requirements, including fees and charges, are readily available to all interested parties and where feasible and possible, official website.
2. Each Party shall designate or maintain one or more inquiry or information points to address inquiries within a reasonable time by interested persons concerning customs and other trade-related matters.

Article 9

Advance Rulings

1. Upon written request from traders each Party shall issue, through its customs authorities, prior to the importation of a good into its territory written advance rulings, in accordance with the parties' laws and regulations, on tariff classification or any other matter as the Parties may agree upon.
2. Subject to any confidentiality requirements in its law each Party shall publish, e.g. on the Internet, its advance rulings on tariff classification and any matters as the Parties may agree upon.
3. To facilitate trade, the Parties shall include in their bilateral dialogue regular updates on changes in their respective legislation on advance rulings.

Article 10

Fees and charges

1. Fees and charges shall only be imposed for services provided in connection with the importation or exportation in question. They shall not exceed the approximate cost of the service provided; and shall not be calculated on an ad valorem basis.
2. Neither Party shall require consular transactions¹, including related fees and charges, in connection with the importation of or exportation to of goods to the other Party. After three years of entry into force of this Agreement, a Party may not require consular authentication for the importation of goods covered by this Agreement.
3. The information on fees and charges shall be published via an officially designated medium, and where feasible and possible, official website. This information shall include the reason for the fee or charge for the service provided, the responsible authority, the fees and charges that will be applied, and when and how payment is to be made.
4. New or amended fees and charges shall not be imposed until information in accordance with paragraph 3 is published and made readily available.

Article 11

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 if and when licensing customs brokers.

¹ Consular transactions means the procedure of obtaining from a consul of the importing Party in the territory of the exporting Party, or in the territory of a third party, a consular invoice or a consular visa for a commercial invoice, certificate of origin, manifest, shippers' export declaration or any other customs documentation in connection with the importation of the good.

Article 12

Customs valuation

1. The Parties shall determine the customs value of goods in accordance with the Agreement on the Implementation of Article VII of the GATT (1994).
2. The Parties shall cooperate with a view to reaching a common approach to issues relating to customs valuation.

Article 13

Pre-shipment Inspections

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

Article 14

Review and Appeal

Each Party shall provide effective, prompt, non-discriminatory and easily accessible procedures to guarantee the right of appeal against customs and other agency administrative actions, rulings and decisions affecting import or export of goods or goods in transit.

Article 15

Relations with the Business Community

The Parties agree:

- (a) on the need for timely consultations with trade representatives on legislative proposals and general procedures related to customs and trade facilitation issues. To that end, appropriate consultation between administrations and the business community shall be established by each Party;
- (b) to publish or otherwise make available, as far as possible through electronic means, and 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;
- (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 remain as little trade-restrictive as possible.

Article 16

Special committee on Customs

1. The Parties hereby establish a Special Committee on Customs composed of representatives of the Parties. The Committee shall meet on a date and with an agenda agreed in advance by the Parties. The office of chairperson of the Committee shall be held alternately by each of the Parties and rotate annually. The Committee shall report to the XXX Committee.
2. The Committee shall ensure the proper functioning of this chapter, including the enforcement of Intellectual Property Rights by Customs in sub-section 3.2 of the IPR chapter, the Protocol xx on Rules of Origin, the Protocol yy on MAA and any additional customs-related provisions agreed between the Parties.
3. The Committee shall examine the need for, and take, decisions, opinions, proposals or recommendations on all issues arising from their implementation. It shall have the power to adopt decisions on mutual recognition of risk management techniques, risk standards, security controls and trade partnership programmes, including aspects such as data transmission and mutually agreed benefits.

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