

CHAPTER SEVEN

CUSTOMS ADMINISTRATION AND TRADE FACILITATION

ARTICLE 7.1: PUBLICATION

1. Each Party shall publish, including on the Internet, its customs laws, regulations, and general administrative procedures.
2. Each Party shall designate or maintain one or more inquiry points to address inquiries by interested persons concerning customs matters and shall make available on the Internet information concerning the procedures for making such inquiries.
3. To the extent possible, each Party shall publish in advance any regulations of general application governing customs matters that it proposes to adopt and shall provide interested persons the opportunity to comment before adopting them.

ARTICLE 7.2: RELEASE OF GOODS

1. In order to facilitate bilateral trade, each Party shall adopt or maintain simplified customs procedures for the efficient release of goods.
2. Pursuant to paragraph 1, each Party shall ensure that its customs authority or other competent authority adopts or maintains procedures that:
 - (a) provide for the release of goods within a period no greater than that required to ensure compliance with its customs laws and, to the extent possible, within 48 hours of the goods' arrival;
 - (b) provide for customs information to be submitted and processed electronically before goods arrive in order for them to be released on their arrival;
 - (c) allow goods to be released at the point of arrival, without temporary transfer to warehouses or other facilities; and
 - (d) allow importers to withdraw goods from customs before, and without prejudice to, its customs authority's final determination of the applicable customs duties, taxes, and fees.¹

ARTICLE 7.3: AUTOMATION

¹ A Party may require importers to provide guarantees in the form of sureties, deposits, or other appropriate instruments sufficient to cover payment of the customs duties, taxes, and fees its customs authority ultimately applies in connection with the importation of the good.

Each Party shall use information technology that expedites procedures for the release of goods and shall:

- (a) make electronic systems accessible to customs users;
- (b) endeavor to use international standards;
- (c) endeavor to develop electronic systems that are compatible with the other Party's systems, in order to facilitate bilateral exchange of international trade data; and
- (d) endeavor to develop a set of common data elements and processes in accordance with World Customs Organization (WCO) Customs Data Model and related WCO recommendations and guidelines.

ARTICLE 7.4: RISK MANAGEMENT

Each Party shall adopt or maintain electronic or automated risk management systems for assessment and targeting that enable its customs authority to focus its inspection activities on high-risk goods and that simplify the clearance and movement of low-risk goods.

ARTICLE 7.5: COOPERATION

1. With a view to facilitating the effective operation of this Agreement, 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 or regulations governing importations that is likely to substantially affect the operation of this Agreement.
2. The Parties shall cooperate in achieving compliance with their respective laws and regulations pertaining to:
 - (a) the implementation and operation of the provisions of this Agreement governing importations or exportations, including claims for preferential tariff treatment, procedures for making claims for preferential tariff treatment, and verification procedures;
 - (b) the implementation and operation of the Customs Valuation Agreement;
 - (c) restrictions or prohibitions on imports or exports; and
 - (d) other customs matters as the Parties may agree.
3. Where a Party has a reasonable suspicion of unlawful activity related to its laws or regulations governing importations, the Party may request the other Party to provide specific confidential information normally collected in connection with the importation of goods.

4. A Party's request under paragraph 3 shall be in writing, shall specify the purpose 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.
5. The Party from which the information is requested shall, in accordance with its law and any relevant international agreements to which it is a party, provide a written response containing the information.
6. For purposes of paragraph 3, a **reasonable suspicion of unlawful activity** means a suspicion based on relevant factual information obtained from public or private sources comprising one or more of the following:
- (a) historical evidence of non-compliance with laws or regulations governing importations by an importer or exporter;
 - (b) historical evidence of non-compliance with laws or regulations governing importations by a manufacturer, producer, or other person involved in the movement of goods from the territory of one Party to the territory of the other Party;
 - (c) historical evidence that some or all of the persons involved in the movement from the territory of one Party to the territory of the other Party of goods within a specific product sector have not complied with a Party's laws or regulations governing importations; or
 - (d) other information that the requesting Party and the Party from whom the information is requested agree is sufficient in the context of a particular request.
7. Each Party shall endeavor to provide the other Party with any other information that would assist the other Party in determining whether imports from or exports to the other Party's territory are in compliance with the other Party's laws or regulations governing importations, in particular those related to unlawful activities, including smuggling and similar infractions.
8. In order to facilitate bilateral trade, each Party shall endeavor to provide the other Party with technical advice and assistance for the purpose of improving risk management techniques, facilitating the implementation of international supply chain standards, simplifying and enhancing procedures for clearing goods through customs in a timely and efficient manner, advancing the technical skill of personnel, and enhancing use of technologies that can lead to improved compliance with the Party's laws or regulations governing importations.
9. The Parties shall endeavor to conduct joint training programs and to exchange information on customs laboratory techniques.
10. The Parties shall endeavor to enhance each Party's ability to enforce its regulations governing importations. The Parties shall further endeavor to establish and maintain channels of

communication, including by establishing contact points, that will assist them in exchanging information rapidly and securely and to improve bilateral coordination on importation issues.

ARTICLE 7.6: CONFIDENTIALITY

1. Where a Party that provides information to the other Party in accordance with this Chapter designates the information as confidential, the other Party shall keep the information confidential. The Party providing the information may require the other Party to furnish written assurance that the information will be held in confidence, will be used only for the purposes the other Party specified in its request for information, and will not be disclosed without the specific permission of the Party that provided the information or the person that provided the information to that Party.
2. If a Party receives information designated as confidential in accordance with paragraph 1, the Party receiving the information may nevertheless use or disclose the information for law enforcement purposes or in the course of judicial proceedings.
3. A Party may decline to provide information that the other Party has requested where that Party has failed to act in conformity with paragraph 1.
4. Each Party shall adopt or maintain procedures for protecting from unauthorized disclosure confidential information submitted in accordance with the administration of the Party's customs laws, including information the disclosure of which could prejudice the competitive position of the person providing the information.

ARTICLE 7.7: EXPRESS SHIPMENTS

Each Party shall adopt or maintain expedited customs procedures for express shipments while maintaining appropriate customs control and selection. These procedures shall:

- (a) provide a separate and expedited customs procedure for express shipments;
- (b) provide for information necessary to release an express shipment to be submitted and processed electronically before the shipment arrives;
- (c) allow submission of a single manifest covering all goods contained in an express shipment, through, if possible, electronic means;
- (d) to the extent possible, provide for certain goods to be cleared with a minimum of documentation;
- (e) under normal circumstances, provide for express shipments to be cleared within four hours after the necessary customs documents have been submitted, provided the shipment has arrived;

- (f) apply without regard to an express shipment's weight or customs value; and
- (g) under normal circumstances, provide that no customs duties or taxes will be assessed on, nor will formal entry documents be required for, express shipments valued at 200 U.S. dollars or less.²

ARTICLE 7.8: REVIEW AND APPEAL

Each Party shall ensure that with respect to its determinations on customs matters, importers in its territory have access to:

- (a) a level of administrative review independent of the employee or office that issued the determinations;³ and
- (b) judicial review of the determinations.

For greater certainty, each Party shall allow an exporter or producer to provide information directly to the Party conducting the review and to request that Party to treat that information as confidential in accordance with Article 7.6.4.

ARTICLE 7.9: PENALTIES

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

ARTICLE 7.10: ADVANCE RULINGS

1. Each Party shall issue, through its customs authority, before a good is imported into its territory, a written advance ruling at the written request of an importer in its territory, or an exporter or producer in the territory of the other Party⁴ with regard to:

- (a) tariff classification;
- (b) the application of customs valuation criteria for a particular case, in accordance with the Customs Valuation Agreement;

² Notwithstanding subparagraph (g), a Party may require express shipments to be accompanied by an airway bill or other bill of lading. For greater certainty, a Party may assess customs duties or taxes, and may require formal entry documents, for restricted goods.

³ For Korea, administrative review under subparagraph (a) may include review by Korea's tax tribunal.

⁴ For greater certainty, an importer, exporter, or producer may submit a request for an advance ruling through a duly authorized representative.

- (c) the application of duty drawback, deferral, or other relief from customs duties;
- (d) whether a good is originating;
- (e) whether a good re-entered into the territory of a Party after being exported to the territory of the other Party for repair or alteration is eligible for duty free treatment in accordance with Article 2.6 (Goods Re-entered after Repair or Alteration);
- (f) country of origin marking;
- (g) whether a good is subject to a quota or tariff-rate quota; and
- (h) such other matters as the Parties may agree.

2. Each Party shall issue an advance ruling within 90 days after its customs authority receives a request, provided that the requester has submitted all information that the Party requires, including, if the Party requests, a sample of the good for which the requester is seeking an advance ruling. In issuing an advance ruling, the Party shall take into account facts and circumstances the requester has provided. For greater certainty, a Party may decline to issue an advance ruling if the facts and circumstances forming the basis of the advance ruling are the subject of administrative or judicial review. A Party that, pursuant to this paragraph, declines to issue an advance ruling shall promptly notify the requester in writing, setting forth the relevant facts and the basis for its decision to decline to issue the advance ruling.

3. Each Party shall provide that advance rulings shall take effect on the date they are issued, or on another date specified in the ruling, provided that the facts or circumstances on which the ruling is based remain unchanged.

4. The issuing Party may modify or revoke an advance ruling after the Party notifies the requester. The issuing Party may modify or revoke a ruling retroactively only if the ruling was based on inaccurate or false information.

5. Each Party shall ensure that requesters have access to administrative review of advance rulings.

6. Subject to any confidentiality requirements in its laws, each Party shall publish its advance rulings, including on the Internet.

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 appropriate measures, including civil, criminal, and administrative actions, monetary penalties, or other sanctions.