

## **Chapter 4 Customs**

### **Section A: Customs Procedures**

#### **Article 4.1: Publication**

1. Each Party shall publish, including on the Internet, its customs laws, regulations, and general administrative procedures.
2. Each Party shall designate one or more contact points to address enquiries from interested persons concerning customs matters, and shall make available on the Internet or in print form information concerning procedures for making such enquiries.

#### **Article 4.2: Release of Goods**

Each Party shall adopt or maintain procedures allowing, to the greatest extent possible, goods to be released:

- (a) within 48 hours of arrival; and
- (b) at the point of arrival, without temporary transfer to warehouses or other locations.

#### **Article 4.3: Automation**

1. The customs authorities shall each endeavour to provide an electronic environment that supports customs transactions with their trading communities.
2. In implementing initiatives that provide for paperless trading, the customs authorities of the Parties shall take into consideration, where applicable, the methods developed in the World Customs Organization.

#### **Article 4.4: Risk Management**

1. Each Party shall adopt a risk management approach to customs activities based on the identified risks of goods, in order to facilitate the swift clearance of low-risk consignments and focus its inspection activities on high-risk goods.
2. The Parties shall exchange information on risk management techniques in the performance of their customs procedures.

#### **Article 4.5: Cooperation**

To the extent permitted by their domestic law, the customs authorities of the Parties may, as they deem fit, assist each other, in relation to originating goods, by providing information on:

- (a) the implementation and operation of this Chapter;
- (b) investigation and prevention of customs offences;
- (c) developing and implementing customs best practices and risk management techniques;
- (d) simplifying and expediting customs procedures; and
- (e) advancing technical skills and use of technology.

#### **Article 4.6: Confidentiality**

1. Nothing in this Chapter shall be construed to require any Party to furnish or allow access to confidential information pursuant to this Chapter that would:

- (a) be contrary to the public interest as determined by its domestic law;
- (b) be contrary to its domestic law;
- (c) impede law enforcement; or
- (d) prejudice the competitive position of the person or Party providing the information.

2. Confidentiality must be maintained on all commercial information obtained in the course of a verification process on the determination of origin.

3. Any confidential information obtained in the course of a verification process on the determination of origin must only be used by the authorities responsible for the administration and application of the determination of origin.

4. 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 and use that information for purposes of the request.

#### **Article 4.7 : Review and Appeal**

1. Each Party shall ensure that, with respect to its determinations on customs matters, the importers in its territory have access to:
  - (a) administrative review independent of the official or office that issued the decision or administrative act subject to review<sup>5</sup>; and
  - (b) judicial review of the decision or administrative act taken at the final level of administrative review, in accordance with the Party's domestic law.
2. The outcome of any reviews referred to in paragraph 1 shall be notified to the appellant and the reasons for such decision shall be provided in writing.

#### **Article 4.8: Penalties**

Each Party shall adopt or maintain measures that provide for the imposition of civil, criminal or administrative penalties where appropriate, for violations of its customs laws and regulations, related to the provisions of this Chapter and Chapter 3 (Rules of Origin).

#### **Article 4.9: Advance Rulings**

1. Each Party, through its customs authority, on request of a person described in subparagraph 2(a), shall provide in writing advance rulings in respect of the tariff classification and origin of goods and whether a good qualifies for preferential tariff treatment.
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 request an advance ruling before the importation of goods in question;
  - (b) require that a person requesting 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 authority may, within a specified period, request additional information in order to have all the relevant information needed;

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<sup>5</sup> For Singapore, this level of administrative review may include the Ministry supervising the customs authority.

- (d) provide that any advance ruling be based on the facts and circumstances presented, and any other relevant information in the possession of the decision-maker; and
  - (e) provide that an advance ruling be issued within 90 days of the receipt of all necessary information.
3. A Party may reject requests for an advance ruling where the additional information requested in accordance with subparagraph 2(c) is not provided within a specified time.
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 indicates that such 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 granted to an imported good should be governed by an advance ruling, the customs authority may evaluate whether the facts and circumstances of the importation are consistent with the facts and circumstances upon which the advance ruling was based.

#### **Article 4.10: Resolution of Disputes on Classification of Goods**

When the Parties cannot agree on the classification of a good, the Parties should hold the appropriate consultations with the World Customs Organization in order to obtain a recommendation that may permit the Parties to reach a uniform position regarding the correct classification of the good under the Harmonized System.

### **Section B: Customs Procedures Relating to Origin**

#### **Article 4.11: Definitions**

For purposes of this Section:

**competent government authority** means the government authority in each Party that is responsible for the verification of origin, which:

- (a) in the case of Costa Rica, is the *Servicio Nacional de Aduanas* (National Customs Service); except for purposes of paragraphs 3 and 4 of Article 4.15

(Verification of Origin), for which the competent government authority is the *Promotora del Comercio Exterior* (“*PROCOMER*”) (Foreign Trade Corporation); and

(b) in the case of Singapore, is the Singapore Customs; and

**day** means calendar days, including weekends and holidays. Where the last day falls on a non-working day, the last day will be extended to the next working day.

#### **Article 4.12: Claims for Preferential Treatment**

1. For the purpose of obtaining preferential tariff treatment in the other Party, an exporter or producer of a Party shall complete and sign a Certification of Origin, certifying that a good qualifies as an originating good and for which an importer may claim preferential treatment upon the importation of the good into the territory of the other Party.

2. The Parties agree that the Certification of Origin does not need to be in a prescribed format and the data elements for this Certification of Origin are those stated in Annex 4.1 (Data Elements to be Included in the Certification of Origin). Such data elements may thereafter be revised by decision of the Commission.

3. Each Party shall:

(a) require an exporter in its territory to complete and sign a Certification of Origin for any exportation of a good for which an importer may claim preferential tariff treatment upon importation of the good into the territory of the other Party; and

(b) provide that where an exporter in its territory is not the producer of the good, the exporter may complete and sign a Certification of Origin on the basis of:

- i. his knowledge of whether the good qualifies as an originating good;
- ii. his reasonable reliance on the producer’s written declaration that the good qualifies as an originating good; or
- iii. a completed and signed Certification of Origin for the good voluntarily provided to the exporter by the producer.

4. Nothing in paragraph 3 shall be construed to require a producer to provide a Certification of Origin to an exporter.

5. Each Party shall provide that a Certification of Origin that has been completed and signed by an exporter or producer in the territory of the other Party that is applicable to a single importation of one or more goods into the Party's territory shall be accepted by its customs authority for 12 months from the date on which the Certification of Origin was signed.

#### **Article 4.13: Waiver of Certification of Origin**

Each Party shall provide that a Certification of Origin shall not be required for the importation of any good whose customs value does not exceed US\$1,500 or its equivalent amount in the Party's currency; or such higher amount as may be established by the importing Party, provided that the importation does not form part of a series of importations that may reasonably be considered to have been undertaken or arranged for the purpose of avoiding the certification requirements.

#### **Article 4.14: Record Keeping Requirement**

1. Each Party shall provide that an exporter or producer in its territory that completes and signs a Certification of Origin shall maintain in its territory, for 3 years after the date on which the Certification of Origin was issued or signed, all records relating to the origin of a good for which preferential tariff treatment was claimed in the territory of the other Party, including records associated with:

- (a) the purchase of, cost of, value of, shipping of, and payment for, the good that is exported from its territory;
- (b) the sourcing of, purchase of, cost of, value of, and payment for, all materials, including indirect materials, used in the production of the good that is exported from its territory; and
- (c) the production of the good in the form in which the good is exported from its territory.

2. Each Party shall provide that an importer claiming preferential tariff treatment for a good imported into the Party's territory shall maintain in that territory, for 3 years after the date of importation of the good, such documentation, including a copy of the Certification of Origin, as the Party may require relating to the importation of the good.

3. The records to be maintained may include electronic records and shall be maintained in accordance with the domestic laws and practices of each Party.

#### **Article 4.15: Verification of Origin**

1. For purposes of determining whether a good imported into its territory from the territory of the other Party qualifies as an originating good, the importing Party may conduct verification by means of:

- (a) requests for information from the importer;
- (b) written questionnaires or requests for information to the exporter or producer of the good(s) in the territory of the other Party, through the competent government authority of the exporting Party, who shall notify the exporter or producer within 5 days upon receipt of such requests;
- (c) requests for assistance from the competent government authority of the exporting Party as provided for in paragraph 3 below; or
- (d) verification visits to the premises of an exporter or a producer in the territory of the other Party, to observe the facilities and the production processes of the good and to review the records referring to origin including accounting files.

2. For purposes of subparagraphs 1(a) and 1(b), the importer, exporter or producer:

- (a) shall answer and return the request within a period of 30 days from the date on which it was received;
- (b) may have one opportunity, before the expiration of the period established in subparagraph (a), to make a written request to the competent government authority of the importing Party for an extension of the answering period, for a period not exceeding 30 days. For the exporter or producer, this written request will be made through the competent government authority of the exporting Party.

In the case where the importer, exporter, or producer does not return the written request for the information made by the competent government authority of the importing Party within the given period or its extension, the importing Party may deny preferential treatment to the good that is subject to verification.

3. For purposes of subparagraph 1(c), the customs authority of the importing Party:

- (a) may request the assistance of the competent government authority of the exporting Party in verifying:

- i. whether the goods declared in the Certification of Origin qualify as originating goods; and/or
  - ii. the accuracy of any information contained in the Certification of Origin;
- (b) shall provide the competent government authority of the other Party with:
  - i. the reasons why such assistance is sought;
  - ii. the Certification of Origin, or a copy thereof; and
  - iii. any information and documents as may be necessary for the purpose of providing such assistance.

4. To the extent allowed by its domestic law and practices, the competent government authority of the exporting Party shall fully cooperate in any action to verify the origin as established under subparagraph 1(b) and paragraph 3 above. In the absence of such cooperation, the importing Party shall determine the accuracy of the information contained in the Certification of Origin with the best information available at that moment.

5. For purposes of subparagraph 1(d), the competent government authority of the importing Party shall:

- (a) deliver, at least 30 days prior to conducting a verification visit, a written notification of its intention to conduct the visit to the exporter or producer and to the competent government authority of the exporting Party; and
- (b) obtain the written consent of the exporter or producer.

6. Pursuant to paragraph 5, the exporter or producer may within 15 days of receiving the notification, request to the competent government authority of the importing Party for a postponement of the proposed verification visit, for a period not exceeding 60 days. This extension shall be notified to the competent authorities of the importing and exporting Parties.

7. A Party shall not deny preferential tariff treatment to a good solely because a verification visit was postponed pursuant to paragraph 6.

8. In the case where an exporter or producer does not give its written consent to a proposed verification visit within 30 days from the receipt of notification, the importing Party may deny preferential treatment to the good that is subject to verification.

9. After concluding the actions related to subparagraphs 1(a), (b), (c) or (d), and no later than 15 days after the outcome of the actions taken, the competent government authority of the importing Party shall provide a written



determination of whether the good is originating and therefore eligible for preferential tariff treatment based on the relevant law and findings of fact. In respect of subparagraphs 1(a), (b), (c) or (d), the maximum time to be taken from the start of the verification to its conclusion should preferably not exceed 150 days.

10. When the customs authority, at time of importation of the goods in the customs territory of one of the Parties, is certain or has a reasonable doubt that the goods do not comply with the provisions under Chapter 3 (Rules of Origin) or the requirements under Annex 4.1 (Data Elements to be Included in the Certification of Origin), it can deny the preferential tariff treatment for such goods, upon notification to the importer by the established means. In such case, the importer can apply the actions and time frames provided by the domestic laws, including customs clearance upon security. Once the customs authority is satisfied that the goods comply with the provisions under Chapter 3 (Rules of Origin) or the requirements under Annex 4.1 (Data Elements to be Included in the Certification of Origin), the security or duties paid shall be refunded.

11. The importing Party may deny preferential treatment to an importer on any subsequent import of a good when its competent government authority had already determined that an identical good was not eligible for that treatment, provided that such good is exported by the same exporter or produced by the same producer subject to verification, until the importing Party determines that the importer, exporter, or producer is in compliance with this Chapter.

#### **Article 4.16: Obligations Relating to Importations**

1. Any good that meets all the applicable requirements in this Chapter and in Chapter 3 (Rules of Origin) is eligible for preferential tariff treatment.

2. A Party may deny preferential tariff treatment under this Agreement to imported good(s) if the importer fails to comply with any requirement of this Chapter or Chapter 3 (Rules of Origin).

3. Except as otherwise provided in this Chapter, each Party shall require an importer in its territory that claims preferential tariff treatment for a good imported into its territory from the territory of the other Party to:

- (a) declare in the importation document that the good qualifies as an originating good, based on a Certification of Origin;
- (b) have the Certification of Origin in its possession at the time the declaration is made;
- (c) provide, on the request of that Party's customs authority, a copy of the Certification of Origin; and

- (d) promptly submit a corrected declaration in a manner required by the customs authority of the importing Party and pay any owed duties where the importer has reason to believe that a Certification of Origin on which a declaration was based contains information that is not correct.

4. Each Party shall provide that, where a good qualified as originating when it was imported into the territory of that Party but no claim for preferential tariff treatment was made at that time, the importer of the good may, no later than 1 year after the date on which the good was imported, apply for a refund of any excess duties paid as the result of the good not having been granted preferential tariff treatment, on presentation of:

- (a) a written declaration that the good qualified as originating at the time of importation; and
- (b) a copy of the Certification of Origin.

#### **Article 4.17: Obligations Relating to Exportations**

1. Each Party shall provide that an exporter or a producer in its territory shall submit a copy of the Certification of Origin to its competent government authority upon request.

2. When an exporter or a producer in its territory has provided a Certification of Origin and has reason to believe that such Certification contains or is based on incorrect information, the exporter or producer shall promptly notify in writing every person to whom it has provided the Certification of any change that could affect the accuracy or validity of the Certification, provided that such notification is made before the initiation of audit procedures. Any penalty, if applicable, for providing an incorrect Certification of Origin for preferential tariff treatment shall be subject to Article 4.8 (Penalties).

#### **Article 4.18: Third Party Invoicing**

The importing Party shall accept a Certification of Origin in cases where the sales invoice is issued either by a company located in a non-Party or by an exporter in the exporting Party for the account of such company, provided that the good meets the requirements of Chapter 3 (Rules of Origin).