

Trade Facilitation Work Programme to ensure effective implementation of trade facilitation measures. For this purpose, an ASEAN Trade Facilitation Framework shall be agreed by Member States within six (6) months after entry into force of this Agreement, to serve as a guideline to further enhance trade facilitation in ASEAN.

2. The ASEAN Work Programme on Trade Facilitation shall be reviewed based on the results of the regular assessment pursuant to paragraph 1 of this Article. The ASEAN Trade Facilitation Work Programme and the ASEAN Trade Facilitation Framework and any revisions thereto shall be administratively annexed to this Agreement and serve as an integral part of this Agreement.

Article 49

Establishment of the ASEAN Single Window

Member States shall undertake necessary measures to establish and operate their respective National Single Windows and the ASEAN Single Window in accordance with the provisions of the *Agreement to Establish and Implement the ASEAN Single Window* and the *Protocol to Establish and Implement the ASEAN Single Window*.

Article 50

Implementation Arrangement

1. The progress in the implementation of the ASEAN Work Programme on Trade Facilitation and the outcomes of its assessment shall be reported to the AFTA Council. The SEOM, assisted by the CCA, shall be the main co-ordinator in monitoring the progress of the implementation of the ASEAN Work Programme on Trade Facilitation, in close co-ordination with the various ASEAN Committees in charge of the implementation of the measures under the Work Programme.

2. Each Member State shall establish a Trade Facilitation Co-ordinating Committee or relevant focal point at the national level.

CHAPTER 6

CUSTOMS

Article 51

Objectives

The objectives of this Chapter are to:

- (a) ensure predictability, consistency and transparency in the application of customs laws of Member States;
- (b) promote efficient and economical administration of customs procedures, and expeditious clearance of goods;
- (c) simplify and harmonise customs procedures and practices to the extent possible; and
- (d) promote cooperation among the customs authorities.

Article 52 Definitions

For the purposes of this Chapter:

- (a) **Authorised Economic Operator** means a party involved in the international movement of goods in any function that has been approved by the customs authorities as complying with statutory and/or regulatory requirements of Member States, taking into account international supply chain security standards;
- (b) **customs control** means measures applied by the customs authorities to ensure compliance with customs laws of Member States;
- (c) **customs procedures** means the treatment applied by the customs authorities of each Member State to goods, which are subject to customs laws;
- (d) **Customs Valuation Agreement** means the *Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994*, contained in Annex 1A to the WTO Agreement;
- (e) **drawback** means the amount of import duties and taxes repaid under the drawback procedure;
- (f) **drawback procedure** means customs procedures which, when goods are exported, provide for a repayment (total or partial) to be made in respect of the import duties and taxes charged on the goods, or on materials contained in them or consumed in their production;

- (g) **goods declaration** means a statement made in the manner prescribed by the customs authorities, by which the persons concerned indicate the customs procedure to be applied to the goods and furnish the particulars which the customs authorities require for its application;
- (h) **repayment** means the refund, in whole or in part, of duties and taxes paid on goods and the remission, in whole or in part, of duties and taxes where payment has not been made;
- (i) **security** means that which ensures to the satisfaction of the customs authorities that an obligation to the customs authorities will be fulfilled; and
- (j) **temporary admission** means customs procedures under which certain goods can be brought into a customs territory conditionally relieved totally or partially from payment of import duties and taxes; such goods must be imported for a specific purpose and must 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.

Article 53

Scope

This Chapter applies, in accordance with the Member States' respective laws, regulations and policies, to customs procedures applied to goods traded among Member States.

Article 54

Customs Procedures and Control

1. Each Member State shall ensure that its customs procedures and practices are predictable, consistent, transparent and trade facilitating, including through the expeditious clearance of goods.
2. Customs procedures of Member States shall, where possible and to the extent permitted by their respective customs law, conform to standards and recommended practices of the World Customs Organisation and other international organisations as relevant to customs.

3. The customs authorities of each Member State shall review its customs procedures with a view to their simplification to facilitate trade.

4. Customs control shall be limited to that which is necessary to ensure compliance with customs laws of Member States.

Article 55

Pre-arrival Documentation

Member States shall endeavour to make provision for the lodging and registering or checking of the goods declaration and its supporting documents prior to the arrival of the goods.

Article 56

Risk Management

Member States shall use risk management to determine control measures with the view to facilitate customs clearance and release of goods.

Article 57

Customs Valuation

1. For the purposes of determining the customs value of goods traded between and among the Member States, provisions of Part I of *Customs Valuation Agreement*, shall apply *mutatis mutandis*⁷.

2. Member States shall harmonise, to the extent possible, administrative procedures and practices in the assessment of value of goods for customs purposes.

Article 58

Application of Information Technology

Member States, where applicable, shall apply information technology in customs operations based on internationally accepted standards for expeditious customs clearance and release of goods.

⁷ In the case of Cambodia, the Agreement on Customs Valuation, as implemented in accordance with the provision of the protocol on the Accession of the Kingdom of Cambodia to the WTO, shall apply *mutatis mutandis*.

Article 59
Authorised Economic Operators

1. Member States shall endeavour to establish the programme of Authorised Economic Operators (AEO) to promote informed compliance and efficiency of customs control.
2. Member States shall endeavour to work towards mutual recognition of AEO.

Article 60
Repayment, Drawback and Security

1. Decisions on claims for repayment shall be reached, and notified in writing to the persons concerned, without undue delay, and repayment of amounts overcharged shall be made as soon as possible after the verification of claims.
2. Drawback shall be paid as soon as possible after the verification of claims.
3. Where security has been furnished, it shall be discharged as soon as possible after the customs authorities are satisfied that the obligations under which the security was required have been duly fulfilled.

Article 61
Post Clearance Audit

Member States shall establish and operate Post Clearance Audit (PCA) for expeditious customs clearance and enhanced customs control.

Article 62
Advance Rulings

1. Each Member State, through its customs authorities and/or other relevant authorities, shall, to the extent permitted by its respective laws, regulations and administrative determinations, provide in writing advance rulings on the application of a person described in paragraph 2(a) of this Article, in respect of the tariff classification, questions arising from the application of the principles of *Customs Valuation Agreement* and/or origin of goods.
2. Where available, each Member State 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 another Member State 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 process an application for an advance ruling;
- (c) provide that its customs authorities may, at any time during the course of evaluation of an application for an advance ruling, request that the applicant provide additional information within a specified period;
- (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 an advance ruling be issued to the applicant expeditiously, within the period specified in each Member State's respective laws, regulations or administrative determinations.

3. A Member State may reject requests for an advance ruling where the additional information requested in accordance with paragraph 2(c) of this Article is not provided within a specified time.

4. Subject to paragraphs 1 and 5 of this Article and where available, each Member State shall apply an advance ruling to all importations of goods described in that ruling imported into its territory for three (3) years from the date of that ruling, or such other period as specified in that Member State's respective laws, regulations or administrative determinations.

5. A Member State may modify or revoke an advance ruling upon a determination that the ruling was based on an error of fact or law (including human error), the information provided is false or inaccurate, there is a change in its law consistent with this Agreement, or there is a change in a material fact, or circumstances on which the ruling was based.

6. Where an importer claims that the treatment accorded to an imported good should be governed by an advance ruling, the customs

authorities may evaluate whether the facts and circumstances of the importation are consistent with the facts and circumstances upon which an advance ruling was based.

Article 63

Temporary Admission

Member States shall facilitate movement of goods under temporary admission to the greatest extent possible.

Article 64

Customs Co-operation

To the extent permitted by their laws, Member States may, as deemed appropriate, assist each other on customs matters.

Article 65

Transparency

1. Member States will facilitate the timely publication, dissemination of statutory and regulatory information, decisions and rulings on customs matters.
2. Each Member State shall publish on the internet and/or in print form all statutory and regulatory provisions and any customs administrative procedures applicable or enforceable by its customs administration, except law enforcement procedures and internal operational guidelines.

Article 66

Enquiry Points

Each Member State shall designate one (1) or more enquiry points to address enquiries from interested persons concerning customs matters, and shall make available on the internet and/or in print form information concerning procedures for making such enquiries.

Article 67

Consultation

The customs authorities of Member States will encourage consultation with each other regarding customs issues that affect goods traded between and among Member States.

Article 68 **Confidentiality**

1. Nothing in this Chapter shall be construed to require any Member State 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 laws;
- (b) be contrary to any of its laws, 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 legitimate commercial interests, which may include competitive position of particular enterprises, public or private.

2. Where a Member State provides information to another Member State in accordance with this Chapter and designates the information as confidential, the Member State receiving the information shall maintain the confidentiality of the information, use it only for the purposes specified by the Member State providing the information, and not disclose it without the specific written permission of the Member State providing the information.

Article 69 **Review and Appeal**

1. Each Member State shall ensure that any person, in its territory, being aggrieved by any customs decision pertinent to this Agreement have access to administrative review within the customs authorities that issued the decision subject to review or, where applicable, by the higher authority supervising the administration and/or judicial review of the determination taken at the final level of administrative review, in accordance with the Member State's law.

2. The decision on appeal shall be given to the appellant and the reasons for such decision shall be provided in writing.

Article 70
Implementation and Institutional Arrangements

The ASEAN Directors-General of Customs, supported by customs working bodies, shall be responsible to implement the provisions of this Chapter and any other provisions relevant to customs in this Agreement.

CHAPTER 7
STANDARDS, TECHNICAL REGULATIONS AND CONFORMITY
ASSESSMENT PROCEDURES

Article 71
Objective

The objective of this Chapter is to establish provisions on standards, technical regulations and conformity assessment procedures to ensure that these do not create unnecessary obstacles to trade in establishing ASEAN as a single market and production base, and at the same time ensure that the legitimate objectives of Member States are met.

Article 72
Terms and Definitions

General terms concerning standardisation and conformity assessment used in this Chapter have the meaning given to them in the definitions contained in the appropriate editions of ISO/ IEC Guide 2 and ISO/ IEC 17000 of the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC) as cited in the *ASEAN Framework Agreement on Mutual Recognition Arrangements* and the relevant ASEAN Sectoral Mutual Recognition Arrangements.

Article 73
General Provisions

1. Member States reaffirm and are committed to abide by the rights and obligations under *the Agreement on Technical Barriers to Trade* contained in Annex 1A to the WTO Agreement.