

CHAPTER 4

CUSTOMS PROCEDURES

ARTICLE 4.1

Scope

This Chapter shall apply, in accordance with the Parties' respective national laws, rules and regulations, to customs procedures required for clearance of goods traded between the Parties.

ARTICLE 4.2

General Provisions

1. The Parties recognise that the objectives of this Agreement may be promoted by the simplification of customs procedures for their bilateral trade.
2. Customs procedures of the Parties shall conform where possible, to the standards and recommended practices of the World Customs Organization.
3. The customs administration of each Party shall periodically review its customs procedures with a view to their further simplification and development to facilitate bilateral trade.

ARTICLE 4.3

Transparency

1. Each Party shall ensure that its laws, regulations, guidelines, procedures, and administrative rulings governing customs matters are promptly published, either on the Internet or in print form.
2. Each Party shall designate, establish, and maintain one or more inquiry points to address inquiries from interested persons pertaining to customs matters, and shall endeavour to make available publically through electronic means, information concerning procedures for making such inquiries.
3. Nothing in this Article or in any part of this Agreement shall require any Party to publish law enforcement procedures and internal operational guidelines including those related to conducting risk analysis and targeting methodologies.

ARTICLE 4.4

Risk Management

1. The Parties shall adopt a risk management approach in its customs activities, based on its identified risk of goods, in order to facilitate the clearance of low risk consignments, while focusing its inspection activities on high-risk

goods.

2. The Parties shall exchange information on risk management techniques used in the performance of their customs procedures.

ARTICLE 4.5

Paperless Communications

1. For the purposes of trade facilitation, the Parties shall endeavour to provide an electronic environment that supports business transactions between their respective customs administration and their trading entities.

2. The Parties shall exchange views and information on realising and promoting paperless communications between their respective customs administration and their trading entities.

3. The respective customs administration of the Parties, in implementing initiatives which provide for the use of paperless communications, shall take into account the methodologies agreed at the World Customs Organization.

ARTICLE 4.6

Certification of Origin

1. The certification of origin will be issued by the competent authority of each Party for the first two (2) years after the date of entry into force of this Agreement.

2. The Parties shall exchange specimen signatures of the authorised signatories issuing the certification of origin and shall provide specimen impressions of official seals at least six (6) months before the date of entry into force of this Agreement.

3. For the purposes of paragraph 1 of this Article, the Parties agreed to include the origin criterion text which would appear in the corresponding description of goods column of the Certification of Origin as "QUALIFYING VALUE CONTENT: %" or "CTC", as the case may be.

4. Notwithstanding paragraph 1 of this Article, at the first regular review session of this Agreement by the Joint Committee pursuant to paragraph 3 of Article 1.11, the Parties shall evaluate and decide on whether to continue with the issue of the certification of origin by the competent authority of each Party, or to switch to the self-certification procedures as set out in paragraphs 5 to 9 of this Article. If either Party is not ready to switch to self-certification during the first regular review session, the issue shall be deferred to subsequent reviews until such time where both Parties can agree to adopt the self-certification procedures.

5. In the case of self-certification, for the purpose of obtaining preferential tariff treatment in the other Party, a proof of origin in the form of a certification of origin shall be completed in accordance with Annex 4 and signed by an exporter or producer of the exporting Party, certifying that a good qualifies as an originating good for which an importer may claim preferential treatment upon the importation of the good into the territory of the other Party.

6. The details in the certification of origin have been agreed between the Parties to consist of the HS Code, description and quantity of the goods, name of consignee, name of exporter or producer or manufacturer, and the country of origin.

7. Each Party shall:

- (a) require an exporter in its territory to complete and declare a certification of origin for any exportation of goods for which an importer may claim preferential tariff treatment upon importation of the goods 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 declare a certification of origin on the basis of:
 - (i) his knowledge of whether the good qualifies as an originating good; or
 - (ii) his reasonable reliance on the producer's written representation that the good qualifies as an originating good; or
 - (iii) a completed and signed certification for the good voluntarily provided to the exporter by the producer.

8. Nothing in paragraph 7 of this Article shall be construed to require a producer to provide a certification of origin to an exporter.

9. 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 a good into the Party's territory shall be accepted by its Customs Administration within six (6) months from the date on which the certification of origin was signed.

ARTICLE 4.7

Claims for Preferential Treatment

1. Except as otherwise provided in this Chapter, each Party shall require an importer who makes a claim for preferential tariff treatment under this Agreement to:

- (a) request preferential tariff treatment at the time of importation of an originating product, whether or not the importer has a certification of origin;
 - (b) make a written declaration that the good qualifies as an originating good;
 - (c) have the certification of origin in its possession at the time the declaration is made, if required by the importing Party's customs administration;
 - (d) provide an original or a copy of the certification of origin as may be requested by the importing Party's customs administration and, if required by that customs administration, such other documentation relating to the importation of the product; or
 - (e) promptly make a corrected declaration and pay any duties owing where the importer has reason to believe that a certification of origin on which a declaration was based contains information that is not correct.
2. A Party may deny preferential tariff treatment under this Agreement to an imported good if the importer fails to comply with any requirement in this Article.
3. Each Party shall, in accordance with its laws, provide that where a good would have qualified as an originating good when it was imported into the territory of that Party, the importer of the good may, within a period specified by the laws of the importing Party, apply for a refund of any excess duties paid as a result of the good not having been accorded preferential treatment.

ARTICLE 4.8

Waiver of Certification of Origin

Each Party shall provide that a certification of origin shall not be required for the importation of a good whose value does not exceed US\$1,000 or its equivalent amount in the Party's currency, except that it may require that the invoice accompanying the importation shall include a statement certifying that the good qualifies as an originating good.

ARTICLE 4.9

Record Keeping Requirement

1. Each Party shall provide that the exporter or producer in its territory that declares a certification of origin shall maintain in its territory, for thirty (30) months after the date on which the certification of origin was signed, all records

relating to the origin of a good for which preferential tariff treatment was claimed in the territory of another 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 thirty (30) months 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 in accordance with paragraphs 1 and 2 of this Article may include electronic records and shall be maintained in accordance with the domestic laws and practices of each Party.

ARTICLE 4.10

Cooperation in Origin Verification

1. For the purpose of determining the authenticity and the correctness of the information given in the certification of origin, the importing Party may conduct verification by means of:

- (a) requests for information from the importer;
- (b) requests for assistance from the customs administration of the exporting Party as provided for in paragraph 2 of this Article;
- (c) written questionnaires to an exporter or a producer in the territory of another Party through the competent authority of the exporting Party;
- (d) visits to the premises of an exporter or a producer in the territory of another Party, subject to the consent of the exporter or the producer and the competent authority of the exporting Party; or
- (e) such other procedures as the Parties may agree.

2. For the purposes of subparagraph 1(b) of this Article, the customs administration of the importing Party:

- (a) may request the customs administration of the exporting Party to assist it in verifying:
 - (i) the authenticity of a certification of origin; and/or
 - (ii) the accuracy of any information contained in the certification of origin; and
 - (b) shall provide the customs administration of another 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.
3. To the extent allowed by its domestic law and practices, the customs administration of the exporting Party shall fully co-operate in any action to verify eligibility.
4. The Party conducting a verification shall, through its customs administration, provide the exporter or producer whose good is the subject of the verification with a written determination of whether the good qualifies as an originating good, including findings of fact and the legal basis for the determination.

ARTICLE 4.11

Advance Rulings

1. Each Party shall provide for the issuance of written advance rulings, prior to the importation of a good into its territory, to an importer of the good in its territory or to an exporter or producer of the good in another Party, as to whether the good qualifies as an originating good. The importing Party shall issue its determination regarding the origin of the good within sixty (60) days from the date of receipt of an application for an advance ruling.
2. The importing Party shall apply an advance ruling issued by it under paragraph 1 of this Article. The customs administration of each Party shall establish a validity period for an advance ruling of not less than two (2) years from the date of its issuance.
3. The importing Party may modify or revoke an advance ruling:
- (a) if the ruling was based on an error of fact;

- (b) if there is a change in the material facts or circumstances on which the ruling was based;
- (c) to conform with a modification of this Chapter; or
- (d) to conform with a judicial decision or a change in its domestic law.

4. Each Party shall provide that any modification or revocation of an advance ruling shall be effective on the date on which the modification or revocation is issued, or on such later date as may be specified therein, and shall not be applied to importations of a good that have occurred prior to that date, unless the person to whom the advance ruling was issued has not acted in accordance with its terms and conditions.

5. Notwithstanding paragraph 4 of this Article, the issuing Party shall postpone the effective date of the modification or revocation of an advance ruling not exceeding ninety (90) days where the person to whom the advance ruling was issued demonstrates that he has relied in good faith to his detriment on that ruling.

ARTICLE 4.12 **Penalties**

Each Party shall maintain measures imposing criminal, civil or administrative penalties, whether solely or in combination, for violations of its laws and regulations relating to this Chapter.

ARTICLE 4.13 **Review and Appeal**

With respect to determinations relating to eligibility for preferential treatment under this Agreement or advance rulings, each Party shall provide that importers in its territory in accordance to its domestic laws or practices have access to:

- (a) at least one level of administrative review of determinations by its customs administration independent² of either the official or office responsible for the decision under review; and
- (b) judicial review of decisions taken at the final level of administrative review.

² For GCC Member States and Singapore the level of administrative review may include the competent authority supervising the customs administration.

ARTICLE 4.14
Sharing of Best Practices

The Parties shall facilitate initiatives for the exchange of information on best practices in relation to customs procedures.

ARTICLE 4.15
Confidentiality

1. Nothing in this Agreement shall be construed to require a Party to furnish or allow access to confidential information, the disclosure of which would impede law enforcement, or otherwise be contrary to the public interest, or which would prejudice the legitimate commercial interests of particular enterprises, public or private.
2. Each Party shall maintain, in accordance with its domestic laws, the confidentiality of information obtained pursuant to this Chapter and shall protect that information from disclosure that could prejudice the competitive position of the persons providing the information.