

CHAPTER 3

CUSTOMS PROCEDURES

ARTICLE 301

Purpose and Definitions

1. The purpose of this Chapter is to promote the objectives of this Agreement by simplifying and harmonising customs procedures and to ensure their proper application in relation to bilateral trade between the Parties.
2. For the purposes of this Chapter, “customs procedures” means the treatment applied by the customs administration of each Party to goods which are subject to customs control.

ARTICLE 302

Scope

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

ARTICLE 303

Customs Valuation

The Parties shall determine the customs value of goods traded between them in accordance with the provisions of Article VII of GATT 1994 and the WTO Customs Valuation Agreement.

ARTICLE 304

Customs Procedures and Facilitation

1. Customs procedures of both Parties shall conform, where possible and to the extent permitted by their respective laws, regulations and policies, to international standards and recommended practices.
2. Each Party shall ensure that its customs procedures and practices are predictable, consistent and transparent and facilitate trade.
3. The customs administrations of both Parties shall periodically review their customs procedures with a view to their further simplification and the development of further mutually beneficial arrangements to facilitate bilateral trade.

ARTICLE 305

Techniques and Use of Cooperative Arrangements

1. To the extent permitted by their laws, regulations and policies, the customs administrations of both Parties shall provide each other with mutual assistance in order to prevent breaches of customs legislation and for the protection of the economic, fiscal, social and commercial interests of their respective countries, including ensuring appropriate and efficient customs duty collection.
2. Each Party shall endeavour to provide the other Party with advance notice of any significant modification of laws, regulations or policies governing importations that is likely to substantially affect the operation of this Agreement.

ARTICLE 306

Review and Appeal

1. Each Party shall provide easily accessible processes for administrative and judicial review of decisions taken by its customs administration.

2. Requests for review of decisions taken by the customs administration of a Party shall be made in writing or electronically, and shall be accompanied by any information deemed useful to comply with the request.

ARTICLE 307

Advance Rulings

1. Subject to Paragraph 2, each Party shall provide, in writing, advance tariff classification rulings (hereinafter referred as “pre-classification”) to a person described in Sub-paragraph 2(a).

2. Each Party shall adopt or maintain procedures for pre-classification, which shall:

- (a) provide that an importer in its territory or an exporter or producer in the territory of the other Party may apply for pre-classification before the importation of goods in question;
- (b) require that an applicant for pre-classification provide a detailed description of the goods and all relevant information needed to process an application for a pre-classification;
- (c) provide that its customs administration may, at any time during the course of an evaluation of an application for pre-classification, request that the applicant provide additional information within a specified period;
- (d) provide that pre-classification 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 pre-classification be issued to the applicant expeditiously, or in any case within 30 working days of the receipt of all necessary information.

3. A Party may reject requests for pre-classification where the additional information requested by it in accordance with Sub-paragraph 2(c) is not provided within the specified period.

4. Subject to Paragraph 5, each Party shall apply a pre-classification to all importations of goods covered by the application for that pre-classification imported into its territory within five years of the date the pre-classification is issued, or such other period as required by a Party’s laws, regulations or policies.

5. A Party may modify or revoke a pre-classification upon a determination that the classification was based on an error of fact or law (including human error), or if there is a change in:

- (a) domestic law consistent with this Agreement; or
- (b) a material factor; or
- (c) the circumstances on which the ruling is based.

ARTICLE 308

Treatment of Goods for which a Certificate of Origin has been Issued

1. The importing Party shall facilitate the importation of goods for which a Certificate of Origin has been issued in accordance with Chapter 4 of this Agreement to the greatest extent permitted under its laws, regulations and policies. In particular, subject to Paragraphs 2 to 4, the importing Party shall not dispute the customs duty payable on such goods at the time of importation or entry for home consumption, provided they are imported and entered in accordance with the relevant Certificate of Origin.

2. To ensure the requirements of Paragraph 1 are met, the importing Party may request the presentation of the Certificate of Origin issued for goods. The customs administration of the importing Party may require the deposit of a security, including a cash security, up to the amount which would be payable on the goods if they did not qualify for preferential tariff treatment.

3. Paragraph 1 does not prevent the importing Party from disputing the customs duty payable on the goods referred to in that Paragraph after the goods have entered for home consumption, in accordance with its laws, regulations and policies.

4. Paragraph 1 does not apply where any goods previously traded by the importer, exporter or producer of the imported goods, or by any person associated with that importer, exporter or producer, are the subject of current verification action, or have been denied preferential tariff treatment, in accordance with Chapter 4 of this Agreement.

5. Where a dispute arises between the Parties as to:

- (a) the valuation or the tariff classification of goods for which a Certificate of Origin has been issued in accordance with Chapter 4 of this Agreement; or
- (b) the valuation or the tariff classification of non-originating materials used or consumed in the processing of those goods; or
- (c) the interpretation of the rules of origin on which the relevant Certificate of Origin was based,

the importing Party shall consult with the exporting Party with a view to resolving the issue prior to taking any action to recover duties.

ARTICLE 309

Paperless Trading and Use of Automated Systems

1. The customs administrations of both Parties, in implementing initiatives which provide for the use of paperless trading, shall take into account the methods agreed in APEC and the World Customs Organization.
2. The customs administration of each Party shall work towards having electronic means for all its customs reporting requirements as soon as practicable.
3. The introduction of information technology shall, to the greatest extent possible, be carried out in consultation with all relevant parties directly affected.

ARTICLE 310

Risk Management

1. The Parties shall administer customs procedures at their respective borders so as to facilitate the clearance of low-risk goods and focus on high-risk goods.
2. The Parties shall apply and develop further risk management techniques in the performance of their customs procedures.

ARTICLE 311

Publication and Enquiry Points

1. Each Party shall publish on the Internet or a comparable computer-based telecommunications network or in print form any statutory and regulatory provisions and any administrative procedures applicable or enforceable by its customs administration.
2. Each Party shall designate one or more enquiry points to address enquiries from interested persons of the other Party concerning customs matters, and shall make available on the Internet information concerning procedures for making such enquiries.