

CHAPTER 4

CUSTOMS PROCEDURES AND TRADE FACILITATION

ARTICLE 4.1

Scope

This Chapter applies to the customs territory of China and the customs territory of Switzerland as defined in Article 2.1.

ARTICLE 4.2

Definitions

For the purposes of this Chapter:

- (a) “customs administration” means:
 - i) in relation to China, the General Administration of Customs; and
 - ii) in relation to Switzerland, the Federal Customs Administration.
- (b) “customs law” means the statutory and regulatory provisions of a Party relating to the importation, exportation, movement or storage of goods, the administration and enforcement of which are specifically charged to the customs, and any regulations made by the customs under their statutory powers;
- (c) “customs procedures” means the treatment applied by the customs administration of a Party to goods and the means of transport, which are subject to that Party’s customs law;
- (d) “Customs Valuation Agreement” means the Agreement on Implementation of Article VII of the General Agreement on Tariff and Trade 1994, which is a part of the WTO Agreement; and
- (e) “means of transport” means any vessels, road vehicles, aircrafts, railway rolling stock and pack-animals which enter or leave the territory carrying persons and/or goods.

ARTICLE 4.3

General Principles

The Parties, aiming to serve the interests of their respective business communities and to create a trading environment allowing them to benefit from the opportunities offered by this Agreement, agree that in particular the following principles are the basis for the development and administration by competent authorities of trade facilitation measures:

- (a) transparency, efficiency, simplification, harmonisation and consistency of trade procedures;

- (b) promotion of international standards;
- (c) consistency with multilateral instruments;
- (d) the best possible use of information technology;
- (e) high standards of public service;
- (f) governmental controls based on risk management;
- (g) cooperation within each Party among customs and other border authorities;
- (h) consultations between the Parties and their respective business communities;
and
- (i) assurance of trade security.

ARTICLE 4.4

Transparency

1. Each Party shall promptly publish on the Internet, and as far as practicable in English, all laws, regulations and rules of general application relevant to trade in goods between China and Switzerland.
2. Each Party shall establish enquiry points for customs and other matters covered under this Chapter, which may be contacted as far as practicable in English via the Internet.
3. Each Party shall consult its respective business community on its needs with regard to the development and implementation of trade facilitation measures, noting that particular attention should be given to the interests of small and medium-sized enterprises.
4. Each Party shall publish in advance, and in particular on the Internet, draft laws and regulations of general application relevant to international trade, with a view to affording the public, especially interested persons, an opportunity to provide comments on them.
5. Each Party shall ensure that a reasonable interval is provided between the publication of laws and regulations of general application relevant to international trade in goods and their entry into force.
6. Each Party shall administer in a uniform, impartial and reasonable manner all its laws, regulations and rules relevant to international trade in goods.

ARTICLE 4.5

Cooperation

1. The Parties may identify, and submit to the Joint Committee for consideration, further measures with a view to facilitating trade between the Parties, as appropriate.

2. The Parties shall promote international cooperation in relevant multilateral fora on trade facilitation. The Parties shall review relevant international initiatives on trade facilitation in order to identify, and submit to the Joint Committee for consideration, further areas where joint action could contribute to their common objectives.

ARTICLE 4.6

Advance Rulings

1. A Party shall in a reasonable, time-bound manner, issue a binding, written advance ruling³ upon submission of a written request that contains all necessary information to an importer, producer or exporter⁴ with regard to:

- (a) tariff classification of a product;
- (b) the method of the transaction value to be used for determining the customs value under a particular set of facts;
- (c) the rules of origin it will accord to a product; and
- (d) such other matters as the Parties may agree.

2. A Party that declines to issue an advance ruling shall promptly notify the requester in writing, setting forth the basis for its decision to decline to issue the advance ruling.

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

4. The Parties may limit the validity of advance rulings to a period determined by domestic legislation.

5. Each Party shall endeavour to make information on advance rulings which it considers to be of significant interest to other traders, publicly available, taking into account the need to protect confidential information.

ARTICLE 4.7

Simplification of International Trade Procedures

1. Each Party's procedures related to customs controls and international trade shall be simple, reasonable, objective and impartial.

2. The Parties shall limit controls, formalities and the number of documents required in the context of trade in goods between the Parties to those necessary and

³ For greater certainty, an importer, exporter, or producer may submit a request for an advance ruling through a duly authorised representative.

⁴ An applicant for an advance ruling from China Customs shall be registered with China Customs.

appropriate to ensure compliance with legal requirements, thereby simplifying, to the greatest extent possible, the related procedures.

3. The importing Party shall not require an original or a copy of the export declaration from the importer.

4. The Parties shall use efficient trade procedures, based, as appropriate, on international standards, aiming to reduce costs and unnecessary delays in trade between them, in particular the standards and recommended practices of the World Customs Organisation (hereinafter referred to as the “WCO”), including the principles of the revised International Convention on the Simplification and Harmonisation of Customs Procedures (Revised Kyoto Convention).

5. Each Party shall adopt or maintain procedures that:

- (a) provide for advance electronic submission and processing of information before the physical arrival of goods in order to expedite their clearance;
- (b) may allow importers to obtain the release of goods prior to meeting all import requirements of that Party if the importer provides sufficient and effective guarantees and where it is decided that neither further examination, physical inspection nor any other submission is required; and
- (c) provide for guarantee to be discharged without delay when it is no longer required.

ARTICLE 4.8

Customs Valuation

The Parties shall apply Article VII of the GATT 1994 and the Customs Valuation Agreement to goods traded between them.⁵

ARTICLE 4.9

Tariff Classification

The Parties shall apply the International Convention on the Harmonized Commodity Description and Coding System to goods traded between them.

ARTICLE 4.10

Competent Customs Offices

1. The Parties shall designate the customs offices at which goods may be presented or cleared. In determining the competence and location of these offices and their hours

⁵ Switzerland applies customs duties based on weight or quantity rather than ad valorem duties (notification to the WTO: G/VAL/N/1/CHE/1 of 28 August 1995).

of business, the factors to be taken into account shall include in particular the requirements of trade.

2. Each Party shall, subject to the availability of resources, perform customs controls and procedures outside the designated hours of business or away from customs offices if so requested by a trader for valid reasons. Any expenses chargeable by the customs shall be limited to the approximate cost of the services rendered.

ARTICLE 4.11

Risk Management

1. Each Party shall determine which persons, goods or means of transport are to be examined and the extent of the examination, based on risk management.

2. In identifying and addressing risks related to the entry, exit, transit, transfer or end-use of goods moved between the customs territory of a Party and the other Party, or the presence of goods that are not in free circulation, the Parties shall systematically apply objective risk management procedures and practices.

3. Risk management shall be applied in such a manner that it does not create arbitrary or unjustifiable discrimination under the same conditions or disguised restriction on international trade.

4. Each Party's procedures related to customs controls and international trade, including its documentary examinations, physical examinations or post-audit examinations, shall not be more onerous than necessary in order to limit its exposure to these risks.

5. The Parties shall adopt effective and efficient customs controls with a view to expediting the release of goods.

ARTICLE 4.12

Customs Audit

1. Customs audit is the process whereby the examination and verification of the goods is conducted by customs after release of the goods within a specified period of time.

2. The customs audit shall be implemented in a transparent manner. Parties shall notify the persons concerned of the result of the case, the rights and obligations it has, as well as the evidences and reasons for the result.

3. The Parties shall, wherever practicable, use the result of customs audit in applying risk management and identifying authorised traders.

ARTICLE 4.13

Authorised Economic Operator System

A Party operating an Authorised Economic Operator System or security measures affecting international trade flows shall:

- (a) afford the other Party the possibility to negotiate mutual recognition of authorisation and security measures for the purpose of facilitating international trade while ensuring effective customs control; and
- (b) draw on relevant international standards, in particular the WCO Framework of Standards.

ARTICLE 4.14

Customs Brokers

The Parties shall ensure that legislation regarding customs brokers is based on transparent rules. The Parties shall allow legal persons to operate with their own customs brokers, as defined in their respective national law.

ARTICLE 4.15

Fees and Charges

1. Each Party shall ensure, in accordance with paragraph 1 of Article VIII of the GATT 1994, that all fees and charges of whatever character (other than customs duties, charges equivalent to an internal tax or other internal charge applied consistently with paragraph 2 of Article III of the GATT 1994, and anti-dumping and countervailing duties) imposed on or in connection with import or export are limited in amount to the approximate cost of services rendered and do not represent an indirect protection to domestic goods or a taxation on imports or exports for fiscal purposes.
2. Each Party shall publish information on fees and charges. The Parties shall endeavour to publish this information on the Internet, in English, as appropriate. Such information may include the type of the fee or charge, the fees and charges that will be applied and the way they are calculated.
3. Upon request, a Party shall provide information on fees and charges applicable to imports of goods into that Party.

ARTICLE 4.16

Consular Transaction

A Party shall not require consular transaction, including related fees and charges in connection with the importation of any goods of the other Party.

ARTICLE 4.17

Temporary Admission of Goods

1. Each Party shall facilitate temporary admission of goods.
2. For the purposes of this Article, “temporary admission” means customs procedures under which certain goods may be brought into a customs territory conditionally relieved from payment of customs duties. Such goods shall be imported for a specific purpose, and shall 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 4.18

Inward and Outward Processing

1. Each Party shall allow inward and outward processing of goods, in accordance with international standards and practices subject to terms and conditions as may be specified in the national legislation.
2. For the purposes of this Article, “inward processing” means customs procedures under which certain goods can be brought into a customs territory conditionally relieved from payment of customs duties, on the basis that such goods are intended for manufacturing, processing or repair and subsequent exportation.
3. For the purposes of this Article, “outward processing” means customs procedures under which certain goods, which are in free circulation in a customs territory, may be temporarily exported for manufacturing, processing or repair abroad and then re-imported with total or partial exemption from customs duties and taxes.

ARTICLE 4.19

Border Agency Cooperation

A Party shall ensure that its authorities and agencies involved in border and other import and export controls cooperate and coordinate their procedures in order to facilitate trade.

ARTICLE 4.20

Review and Appeal

Each Party shall ensure that importers, exporters and producers have the right to at least one level of independent administrative review or appeal and judicial appeal in accordance with its domestic legislation.

ARTICLE 4.21

Confidentiality

All information provided in relation with the importation, exportation, advance rulings or transit of goods shall be treated as confidential by the Parties and shall be covered by the obligation of professional secrecy, in accordance with the respective laws of each Party. This information shall not be disclosed by the authorities of a Party without the express permission of the person or authority providing it.

ARTICLE 4.22

Consultation

Either Party may request consultations on matters arising from the operation or implementation of this Chapter. Such consultation shall be conducted through the relevant contact points of the respective customs administration. Information on the contact points shall be provided to the other Party and any amendment of the said information shall be notified promptly.

ARTICLE 4.23

Sub-Committee on Customs Procedures and Trade Facilitation

1. A Sub-Committee on Customs Procedures and Trade Facilitation (hereinafter referred to in this Article as the “Sub-Committee”) consisting of representatives of both Parties is hereby established under the Joint Committee.
2. The Sub-Committee shall deal with the following issues:
 - (a) monitor and review of measures taken and implementation of commitments;
 - (b) exchange of information and review developments;
 - (c) prepare and coordinate positions of the Parties;
 - (d) prepare technical amendments and assist the Joint Committee;
 - (e) customs practices, including national and international standards, which facilitate trade in goods between the Parties;
 - (f) interpretation, application and administration of this Chapter;
 - (g) tariff classification and customs valuation matters;
 - (h) other subjects regarding practices and procedures adopted by the Parties, which may have an impact on the expeditious clearance of goods;
 - (i) other matters as the Parties may agree;
 - (j) other matters that are referred to the Sub-Committee by the Joint Committee;

and

(k) make recommendations and report to the Joint Committee as necessary.

3. The Sub-Committee shall be chaired by representatives of the customs administration of the Parties. Upon mutual agreement, the Parties may invite representatives from industry, business associations or other relevant organisations to participate in parts of the meetings of the Sub-Committee on a case by case basis.

4. The Sub-Committee shall be co-chaired. The Sub-Committee shall designate a chairperson. The chairperson shall prepare a provisional agenda for each meeting of the Sub-Committee in consultation with the other Party and forward it to the other Party before the meeting.

5. The Sub-Committee shall meet as often as required. It shall be convened by the Joint Committee, by the chairperson of the Sub-Committee or upon request of a Party. The meeting shall take place alternately between China and Switzerland, or as mutually agreed by the Parties.

6. The Sub-Committee shall prepare a report on the results of each meeting, and the chairperson shall, if requested, report at a meeting of the Joint Committee.