

CHAPTER 5 CUSTOMS PROCEDURES AND COOPERATION

Article 5.1 Objectives

The objectives of this Chapter are to:

- (a) ensure predictability, consistency and transparency in the application of customs laws and regulations of the Parties;
- (b) promote efficient, economical administration of customs procedures, and the expeditious clearance of goods;
- (c) simplify customs procedures; and
- (d) promote cooperation between the customs administrations of the Parties.

Article 5.2 Scope

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

Article 5.3 Definitions

For the purposes of this Chapter:

- (a) **customs law** means such laws and regulations administered and enforced by the Customs Authority of each Party concerning the importation, exportation, and transit/transshipment of goods, as they relate to customs duties, charges, and other taxes, or to prohibitions, restrictions, and other similar controls with respect to the movement of controlled items across the boundary of the customs territory of each Party;
- (b) **customs procedures** means the treatment applied by the customs administration of each Party to goods, which are subject to customs law.

Article 5.4 Customs Procedures and Facilitation

1. Each Party shall ensure that its customs procedures and practices are predictable, consistent, transparent, and facilitate trade, including through the expeditious clearance of goods.
2. Customs procedures of the Parties shall, where possible and to the extent permitted by their respective customs laws, conform to the standards and recommended practices of the World Customs Organization.
3. The customs administration of each Party shall review its customs procedures with a view to their simplification to facilitate trade.

Article 5.5

Risk Management

1. The Parties shall administer customs procedures so as to facilitate the clearance of low-risk goods and focus on high-risk goods. To enhance the flow of goods across their borders, the customs administrations shall regularly review these procedures.
2. Where a customs administration deems that the inspection of goods is not necessary to authorise clearance of the goods from customs control, it shall endeavour to provide a single point for the documentary or electronic processing of those goods.

Article 5.6

Advance Rulings

1. Each Party, through its customs administration or other relevant authorities, to the extent permitted by their domestic laws, regulations and administrative determinations, on the application of a person referred in subparagraph 2(a), shall provide in writing advance rulings in respect of the tariff classification.
2. Where available, each Party shall adopt or maintain procedures for advance rulings, which shall:
 - (a) provide that an importer in its territory 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 administration may, at any time during the course of an 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 Party's domestic laws, regulations or administrative determinations.
3. A Party may reject requests for an advance ruling where the additional information requested by it in accordance with subparagraph 2(c) is not provided within a specified time.
4. Subject to paragraphs 1 and 5 and where available, each Party shall apply an advance ruling to all importations of goods described in that ruling imported into its territory for the period as specified in that Party's domestic laws, regulations or administrative determinations.

5. A Party may modify or revoke an advance ruling where there is a determination that the advance ruling was based on an error of fact or law (including human error), the information provided is false or inaccurate, or if there is a change in:

- (a) domestic law;
- (b) a material fact; or
- (c) the circumstances,

on which the ruling is based.

6. Where an importer claims that the treatment accorded to an imported good should be governed by an advance ruling, the customs administration 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 5.7 **Use of Automated Systems**

1. The customs administrations, where applicable, shall endeavour to have their own system that supports electronic customs transactions.

2. In implementing initiatives, each customs administration shall take into account the relevant standards and best practices recommended by the World Customs Organization, taking into consideration the available infrastructures and capabilities of each Party.

Article 5.8 **Customs Cooperation**

1. To the extent permitted by their domestic law, the customs administrations of the Parties may, as deemed appropriate, assist each other, in relation to:

- (a) the implementation and operation of this Chapter;
- (b) developing and implementing customs best practices and risk management techniques;
- (c) providing, where possible, prior notice of changes to laws, regulations, and relevant procedures and guidelines that would affect the operation of this Agreement;
- (d) simplifying and harmonising customs procedures;
- (e) advancing technical skills and the use of technology; and
- (f) application of the Agreement on Customs Valuation.

2. Subject to available resources, the customs administrations of the Parties may, as deemed appropriate, explore and undertake cooperation projects, including capacity building programmes to enhance the capability of their customs personnel.

Article 5.9 Transparency

Each Party shall ensure that its customs laws, regulations and general administrative procedures and other requirements, including customs fees and charges, are readily available to all interested parties wherever possible in electronic form.

Article 5.10 Contact Points

Each Party shall designate or maintain one or more contact points to address inquiries by interested persons concerning customs matters.

Article 5.11 Consultation

The customs administrations of the Parties will encourage consultation with each other regarding significant customs issues that affect goods traded between the Parties.

Article 5.12 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 the disclosure of which it considers would:

- (a) be contrary to the public interest as determined by its legislation;
- (b) be contrary to any of its legislation 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 Party provides information to the other Party in accordance with this Chapter and designates the information as confidential, the Party receiving the information shall maintain the confidentiality of the information, use it only for the purposes specified by the Party providing the information, and not disclose it without the specific written permission of the Party providing the information.

Article 5.13 Review and Appeal

1. Each Party shall ensure that the importers in its territory have access to administrative review within the customs administration that issued the decision subject to review or where applicable, 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 Party's domestic laws.
2. The decision on appeal shall be given to the appellant and the reasons for such decision shall be provided in writing.
3. The level of institution to carry out administrative review may include any authority in accordance with the Party's domestic laws.