

ARTICLE 2.10

Import and export restrictions

Unless otherwise provided for in this Agreement, neither Party shall adopt or maintain any prohibition or restriction on the importation of any good of the other Party or the exportation or sale for export of any good destined for the territory of the other Party, except in accordance with Article XI of the GATT 1994 and its interpretative notes. To this end, Article XI of the GATT 1994 and its interpretative notes are incorporated into and made part of this Agreement *mutatis mutandis*.

ARTICLE 2.11

Data sharing on preference utilisation

1. For the purposes of monitoring the functioning of this Agreement and calculating preference utilisation rates, each Party shall, upon request of the other Party, annually exchange import statistics starting one year after the entry into force of this Agreement. The Joint Committee may review the process and content of this data exchange.
2. The exchange of import statistics shall cover data pertaining to the most recent year available, including value and, where applicable, volume, at the tariff line level for imports of goods of the other Party benefitting from preferential duty treatment under this Agreement and those that received non-preferential treatment.

CHAPTER 3

CUSTOMS AND TRADE FACILITATION

ARTICLE 3.1

Scope

1. This Chapter shall apply to the matters relating to each Party's customs legislation, other trade-related laws and regulations and general administrative procedures related to trade, including their application to goods traded between the Parties, as well as the cooperation between the Parties.
2. This Chapter shall be implemented by each Party in accordance with its laws and regulations. Each Party shall use its available resources in an appropriate way to implement this Chapter.

ARTICLE 3.2

Definitions

For the purposes of this Chapter:

“Agreement on Trade Facilitation” means the Agreement on Trade Facilitation annexed to the Protocol Amending the Agreement establishing the World Trade Organization (decision of 27 November 2014);

“SAFE Framework” means the SAFE Framework of Standards to Secure and Facilitate Global Trade, adopted at the June 2005 World Customs Organisation Session in Brussels and as updated from time to time; and

“WCO Data Model” means the library of data components and electronic templates for the exchange of business data and compilation of international standards on data and information used in applying regulatory facilitation and controls in global trade, published by the WCO Data Model Project Team from time to time.

ARTICLE 3.3

Objectives and principles

1. The objectives of this Chapter are as follows:
 - (a) promoting trade facilitation for goods traded between the Parties while ensuring effective customs controls, taking into account the evolution of trade practices;
 - (b) ensuring transparency of each Party’s customs legislation and other trade-related laws and regulations and consistency thereof with applicable international standards;
 - (c) ensuring predictable, consistent, transparent and non-discriminatory application of each Party’s customs legislation and other trade-related laws and regulations;
 - (d) promoting simplification and modernisation of each Party’s customs procedures and practices;
 - (e) further developing risk management techniques to facilitate legitimate trade, while securing the international trade supply chain; and
 - (f) enhancing cooperation between the Parties in the field of customs matters and trade facilitation.

2. The Parties recognise the importance of customs and trade facilitation in the evolving global trading environment and will put in place customs arrangements that, where practicable, make use of all available facilitative arrangements and technologies.
3. The Parties affirm their rights and obligations under the Agreement on Trade Facilitation.
4. The Parties recognise that customs and international trade instruments and standards applicable in the area of customs and trade, such as the substantive elements of the following instrument and standards, should be taken into consideration for their import, export and transit requirements and procedures:
 - (a) the International Convention on the Simplification and Harmonization of Customs Procedures, done at Kyoto on 18 May 1973 as amended by the Protocol of Amendment to the International Convention on the Simplification and Harmonization of Customs Procedures of 18 May 1973, done at Brussels on 26 June 1999;
 - (b) the International Convention on the Harmonized Commodity Description and Coding System, done at Brussels on 14 June 1983 as amended by the Protocol of Amendment to the International Convention on the Harmonized Commodity Description and Coding System on 24 June 1986;
 - (c) the Customs Convention on the ATA Carnet for the Temporary Admission of Goods, done at Brussels on 6 December 1961;
 - (d) the Convention on Temporary Admission, done at Istanbul on 26 June 1990;
 - (e) the SAFE Framework; and
 - (f) the WCO Data Model.
5. The Parties recognise that legislation and other trade-related laws and regulations shall be non-discriminatory, and customs procedures shall be based upon the use of modern methods and effective controls to achieve the protection and facilitation of legitimate trade.
6. The Parties recognise that their customs procedures shall be no more administratively burdensome or trade restrictive than necessary to achieve legitimate objectives and that they should be applied in a manner that is predictable, consistent and transparent.
7. In order to ensure transparency, efficiency, integrity and accountability of operations, each Party shall:

- (a) review and simplify requirements and formalities wherever possible with a view to facilitating the rapid release and clearance of goods;
 - (b) consider the further simplification and standardisation of data and documentation required by customs authorities and other agencies in order to reduce the time and costs thereof for traders or operators, including small and medium-sized enterprises; and
 - (c) ensure that the highest standards of integrity is maintained, through the application of measures reflecting the principles of the relevant international conventions and instruments in this field.
8. The Parties shall seek to reinforce their cooperation with a view to ensuring that the relevant legislation and procedures, as well as the administrative capacity of the relevant administrations, fulfil the objectives set out in this Chapter.

ARTICLE 3.4

Transparency and publication

1. Each Party shall, as appropriate, provide for regular consultations between border agencies and traders or other interested parties within its territory.
2. Each Party shall, in accordance with its laws and regulations, ensure that new or amended laws and regulations of general application related to customs and trade facilitation issues are published or information on them made otherwise publicly available, as early as possible before their application, in order to enable traders and other interested parties to become acquainted with them.
3. Paragraphs 1 and 2 shall not apply to:
 - (a) changes to the rates of customs duties;
 - (b) measures that have a relieving effect;
 - (c) measures the effectiveness of which would be undermined as a result of compliance with paragraphs 1 and 2;
 - (d) measures applied in urgent circumstances; or
 - (e) minor changes to domestic law and legal system.
4. Each Party shall promptly make publicly available, in a non-discriminatory and easily accessible manner including online, its laws, regulations, general administrative procedures and guidelines, related to customs and trade facilitation issues. These include:

- (a) importation, exportation and transit procedures (including port, airport, and other entry point procedures), required forms and documents;
 - (b) applied rates of customs duties and taxes of any kind imposed on or in connection with importation or exportation;
 - (c) fees and charges imposed by or for governmental agencies on or in connection with importation, exportation or transit;
 - (d) rules for the classification or valuation of goods for customs purposes;
 - (e) laws, regulations and administrative rulings of general application relating to rules of origin;
 - (f) import, export or transit restrictions or prohibitions;
 - (g) penalty provisions against breaches of import, export or transit formalities;
 - (h) appeal procedures;
 - (i) agreements or parts thereof with any country or countries relating to importation, exportation or transit;
 - (j) procedures relating to the administration of tariff quotas;
 - (k) hours of operation and operating procedures for customs offices at ports and border crossing points; and
 - (l) points of contact for information enquiries.
5. Whenever practicable, information on general administrative procedures and guidelines, related to customs and trade facilitation and the information referred to in paragraph 4 shall also be made available in a mutually agreed official language of the WTO.
 6. Each Party shall establish or maintain one or more enquiry points to address enquiries of interested parties concerning customs and other trade facilitation issues, and shall make information concerning the procedures for making such enquiries publicly available online.
 7. A Party shall not require the payment of a fee for answering enquiries or providing required forms.
 8. The enquiry points shall answer enquiries and provide the forms and documents within a reasonable time period set by each Party, which may vary depending on the nature or complexity of the request.

9. The information on fees and charges that shall be made publicly available in accordance with subparagraph 4(c) shall include the fees and charges that will be applied, the reason for such fees and charges, the responsible authority and when and how payment is to be made. Such fees and charges shall not be applied until information on them has been made publicly available.

ARTICLE 3.5

Data, documentation and automation

1. With a view to simplifying and minimising the complexity of import, export and transit formalities and documentation requirements, each Party shall ensure as appropriate, that such formalities, data and documentation requirements are adopted or applied:
 - (a) with a view to a rapid release of goods, in order to facilitate trade between the Parties; and
 - (b) in a manner that aims to reduce the time and cost of compliance for traders and operators.
2. Each Party shall promote the development and use of advanced systems, including those based on information and communications technology, to facilitate the exchange of electronic data between traders or operators and its customs authority and other trade-related agencies. This includes by:
 - (a) making electronic systems accessible to customs users;
 - (b) allowing a customs declaration to be submitted in electronic format;
 - (c) using electronic or automated risk management systems; and
 - (d) permitting or requiring the electronic payment of duties, taxes, fees and charges collected by its customs authority and incurred upon importation or exportation.
3. Each Party shall endeavour to make publicly available electronic versions of all existing publicly available trade administration documents.
4. Each Party shall endeavour to accept the electronic versions of trade administration documents as the legal equivalent of paper documents except where:
 - (a) there is a domestic or international legal requirement to the contrary; or
 - (b) doing so would reduce the effectiveness of the trade administration process.

5. The Parties shall endeavour to cooperate on the development of interoperable electronic systems, in order to facilitate trade between the Parties.
6. Each Party shall work towards further simplification of data and documentation required by their customs authorities or other related agencies.

ARTICLE 3.6

Simplified customs procedures

1. Each Party shall adopt or maintain measures allowing traders or operators fulfilling criteria specified in its laws and regulations to benefit from further simplification of customs procedures.
2. Each Party shall endeavour to ensure that these simplified procedures include:
 - (a) customs declarations containing a reduced set of data or supporting documents, including for the movement of low-value consignments;
 - (b) the acceptance of payment of customs duties and taxes at a later date after the release of those imported goods, within a period specified by the Party;
 - (c) the ability to clear goods from importer or exporter premises;
 - (d) the use of a guarantee with a reduced amount or a waiver from use of a guarantee.
3. The Parties agree to cooperate on and consider further measures to reduce the administrative burdens for economic operators in relation to import and export.

ARTICLE 3.7

Release of goods

1. Each Party shall adopt or maintain simplified customs procedures for the efficient release of goods in order to facilitate trade between the Parties and reduce costs for importers and exporters.
2. Each Party shall adopt or maintain procedures that:
 - (a) provide for the prompt release of goods within a period no longer than that required to ensure compliance with all applicable requirements and procedures, and as a maximum within 48 hours of the goods being presented to customs, provided:

- (i) the Party has received all information necessary to ensure compliance with all applicable requirements and procedures; and
 - (ii) the goods are not subject to physical inspection;
 - (b) if applicable and to the extent possible, provide for advance electronic submission and processing of import declarations and other information, including manifests, before physical arrival of goods to enable their release immediately upon arrival if no risk has been identified or if no other checks are to be performed;
 - (c) allow goods to be released at the point of presentation to its customs authority without temporary transfer to warehouses or other facilities, save for goods which the Party classifies as controlled or regulated goods, in accordance with its laws and regulations;
 - (d) allow controlled or regulated goods to be released at the point of presentation to its customs authority where possible, subject to any separate procedures which apply to those goods under the Party's laws and regulations;
 - (e) allow for the release of goods prior to the final determination of customs duties, taxes, fees and charges, if such a determination is not done prior to, or promptly upon arrival, and provided that all other regulatory requirements have been met. Before releasing the goods, the Party may require that an importer provides sufficient guarantee in the form of a surety, a deposit, or some other appropriate instrument; and
 - (f) if applicable and to the extent possible, provide for, in accordance with its laws and regulations, clearance of certain goods with minimum documentation.
3. Each Party shall use its best endeavours to adopt or maintain procedures under which goods in need of urgent clearance can be released promptly.
 4. Each Party shall ensure that its authorities and agencies involved in border and other import and export controls cooperate and coordinate to facilitate trade by, among other things, ensuring a consistent user experience for traders at their respective borders to a reasonable extent.

ARTICLE 3.8

Risk management

1. Each Party shall adopt or maintain a risk management system using electronic data-processing techniques for customs control that enables its customs

authority to focus its inspection activities on high-risk consignments and expedite the release of low-risk consignments.

2. Each Party shall design and apply risk management in a manner so as to avoid arbitrary or unjustifiable discrimination, or disguised restrictions to international trade.
3. Each Party shall base risk management on assessment of risk through appropriate selectivity criteria.
4. Each Party may select, on a random basis, consignments for inspection activities referred to in paragraph 1 as part of its risk management.
5. In order to facilitate trade, each Party shall periodically review and update, as appropriate, the risk management system referred to in paragraph 1.

ARTICLE 3.9

Advance rulings

1. Each Party shall issue, through its customs authority, an advance ruling that sets forth the treatment to be provided to the goods concerned. That ruling shall be issued in a reasonable, time bound manner and in any event within 90 days, to an applicant that has submitted a written request, including in electronic format, provided that the request contains all necessary information in accordance with the laws and regulations of the issuing Party. A Party may request a sample of the good for which the applicant is seeking an advance ruling.
2. An advance ruling shall cover tariff classification of the goods, origin of goods including their qualification as originating goods under the Protocol on Rules of Origin and Origin Procedures or any other matter as the Parties may agree.
3. The advance ruling shall be valid for at least a three-year period after its issuance unless the law, facts or circumstances supporting the original advance ruling have changed.
4. A Party may decline to issue an advance ruling if:
 - (a) the law, facts or circumstances forming the basis of the advance ruling are the subject of administrative or judicial review;
 - (b) where the application is not based on factual information; or
 - (c) does not relate to any intended use of the advance ruling.

5. A Party that declines to issue an advance ruling shall promptly notify the applicant in writing, setting out the relevant facts and the basis for its decision.
6. Each Party shall publish online, at least:
 - (a) the requirements for an application for an advance ruling, including the information to be provided and the format;
 - (b) the time period by which it will issue an advance ruling; and
 - (c) the length of time for which the advance ruling is valid.
7. Where a Party revokes, modifies or invalidates an advance ruling, it shall provide written notice to the applicant setting out the relevant facts and the basis for its decision. Where the Party revokes, modifies or invalidates an advance ruling with retroactive effect, it may only do so where the ruling was based on incomplete, incorrect, inaccurate, false or misleading information provided by the applicant.
8. An advance ruling issued by a Party shall be binding on the applicant that sought it and on that Party in respect of that applicant.
9. Each Party shall provide, upon written request of an applicant, a review of the advance ruling or of the decision to revoke, modify or invalidate it.
10. Subject to any confidentiality requirements in its laws and regulations, a Party may publish its advance rulings, including online.

ARTICLE 3.10

Customs valuation

For the purposes of determining the customs value of goods traded between the Parties, the provisions of Part I of the Customs Valuation Agreement shall apply, *mutatis mutandis*.

ARTICLE 3.11

Authorised Economic Operator

1. Each Party shall establish or maintain a trade facilitation partnership programme for operators who meet specified criteria, hereinafter referred to as the Authorised Economic Operator (AEO) programme, in accordance with the SAFE Framework.

2. Each Party shall publish the specified criteria to qualify as an AEO. The specified criteria shall relate to compliance or the risk of non-compliance, in accordance with requirements specified in the Party's laws, regulations or procedures. The Parties may use the criteria set out in Article 7.7.2(a) of the Agreement on Trade Facilitation.
3. The specified criteria to qualify as an AEO shall not be designed or applied so as to afford or create arbitrary or unjustifiable discrimination between operators where the same conditions prevail. The specified criteria shall be designed or applied so as to allow the participation of small and medium-sized enterprises.
4. The AEO programme shall include specific benefits for such operators that meet the specified criteria, taking into account the commitments of each Party under Article 7.7.3 of the Agreement on Trade Facilitation.
5. The Parties are encouraged to enter into a mutual recognition arrangement in relation to their respective AEO programmes.

ARTICLE 3.12

Review and appeal

1. Each Party shall provide effective, prompt, non-discriminatory and easily accessible procedures to guarantee the right of appeal against a decision on a customs matter.
2. Each Party shall ensure that any person to whom it issues a decision on a customs matter has access within its territory to:
 - (a) an administrative appeal to, or a review by, an administrative authority higher than or independent of the official or office that issued the decision; or
 - (b) a judicial appeal or review of the decision.
3. Each Party shall provide that any person who has applied to a customs authority for a decision and has not obtained a decision on that application within the relevant time-limits be entitled to exercise the right of appeal.
4. Each Party shall provide a person to whom it issues an administrative decision with the reasons for the decision, so as to enable such a person to exercise the right of appeal.

ARTICLE 3.13

Penalties

1. Each Party shall provide for penalties for failure to comply with its customs laws, regulations or procedural requirements related to customs, the exportation, importation and transit of goods.
2. Each Party shall ensure that its customs laws and regulations provide that any penalties imposed for breaches of customs laws, regulations or procedural requirements be proportionate and non-discriminatory.
3. Each Party shall ensure that a penalty imposed by its customs authority for a breach of its customs laws, regulations or procedural requirements is imposed only on the person(s) legally responsible for the breach.
4. Each Party shall ensure that the penalty imposed depends on the facts and circumstances of the case and is commensurate with the degree and severity of the breach. Each Party shall avoid incentives or conflicts of interest in the assessment and collection of penalties and duties.
5. Each Party is encouraged to require its customs authority, when imposing a penalty for a breach of its customs laws, regulations or procedural requirements, to consider as a potential mitigating factor the voluntary disclosure of the breach prior to its discovery by the customs authority.
6. Each Party shall ensure that if a penalty is imposed for a breach of customs laws, regulations or procedural requirements, an explanation in writing is provided to the person(s) upon whom the penalty is imposed, specifying the nature of the breach and the applicable laws, regulations or procedural requirements under which the amount or range of penalty for the breach has been prescribed.
7. Each Party shall provide in its laws, regulations or procedures, or otherwise give effect to, a fixed and finite period within which its customs authority may initiate proceedings to impose a penalty relating to a breach of customs laws, regulations or procedural requirements.

ARTICLE 3.14

Customs cooperation and mutual administrative assistance

1. The Parties shall continue to cooperate in international fora, such as the WCO, to achieve mutually recognised goals, including those set out in the SAFE Framework.

2. The Parties shall cooperate in accordance with the Mutual Administrative Assistance Protocol in Customs Matters providing each other with mutual administrative assistance in customs matters and exchanging information, including on matters relating to suspected customs offences, as defined in that Protocol, and to the implementation of this Agreement.

ARTICLE 3.15

Single window

Each Party shall endeavour to develop or maintain single window systems to facilitate a single, electronic submission of all information required by its customs laws, other laws and regulations for the exportation, importation and transit of goods.

ARTICLE 3.16

Transit and transshipment

Each Party shall:

- (a) ensure the facilitation and effective control of transshipment operations and transit movements through its territory;
- (b) endeavour to promote and implement regional transit arrangements with a view to facilitating trade;
- (c) ensure cooperation and coordination between all concerned authorities and agencies in their respective territories to facilitate traffic in transit; and
- (d) allow goods intended for import to be moved within its territory under customs control from a customs office of entry to another customs office in its territory from where the goods would be released or cleared.

ARTICLE 3.17

Post-clearance audit

1. With a view to expediting the release of goods, each Party shall:
 - (a) adopt or maintain post-clearance audits to ensure compliance with its customs laws, regulations or procedural requirements;

- (b) conduct post-clearance audits in a risk-based manner, which may include appropriate selectivity criteria;
 - (c) conduct post-clearance audits in a transparent manner; and
 - (d) wherever practicable, use the result of post-clearance audit in applying risk management.
- 2. Where an audit is conducted and conclusive results have been achieved, the Party shall, without delay, notify the person whose record is audited of the results, the reasons for the results and the audited person's rights and obligations.
- 3. The Parties acknowledge that the information obtained in a post-clearance audit may be used in further administrative or judicial proceedings.

ARTICLE 3.18

Customs brokers

- 1. The Parties agree that their respective customs provisions and procedures shall not require the mandatory use of customs brokers.
- 2. Each Party shall:
 - (a) publish measures on the use of customs brokers; and
 - (b) apply transparent, non-discriminatory and proportionate rules if and when licensing customs brokers.

ARTICLE 3.19

Pre-shipment inspections

Each Party shall not require the mandatory use of pre-shipment inspections as defined in the Agreement on Pre-shipment Inspection, contained in Annex 1A to the WTO Agreement, in relation to tariff classification and customs valuation¹.

¹ For greater certainty, this paragraph only applies to pre-shipment inspections covered by the Agreement on Pre-shipment Inspection, and does not preclude pre-shipment inspections for sanitary and phytosanitary purposes.