

CHAPTER SIX

CUSTOMS ADMINISTRATION

ARTICLE 6.1 : PUBLICATION AND NOTIFICATION

1. Each Party shall ensure that its laws, regulations, guidelines, procedures, and administrative rulings governing customs matters are promptly published on the Internet and in print form.
2. Each Party shall designate one or more inquiry points to address inquiries from interested persons pertaining to customs matters, and shall make available on the Internet information concerning procedures for making such inquiries.
3. To the extent possible, each Party shall:
 - (a) publish in advance any regulation governing customs matters that it proposes to adopt; and
 - (b) provide interested persons and the other Party a reasonable opportunity to comment on the proposed regulation.

ARTICLE 6.2 : ADMINISTRATION

1. Each Party shall administer in a uniform, impartial, and reasonable manner all its laws, regulations, guidelines, procedures, and administrative rulings governing customs matters.
2. Each Party shall ensure that its laws and regulations governing customs matters are not prepared, adopted, or applied with a view to or with the effect of creating arbitrary or unwarranted procedural obstacles to international trade.

ARTICLE 6.3 : ADVANCE RULINGS

1. Each Party shall provide for written advance rulings to be issued to a person described in paragraph 2(a) concerning tariff classification, questions arising from the application of the Customs Valuation Agreement, country of origin, and the qualification of a good as an originating good under this Agreement.
2. Each Party shall adopt or maintain procedures for issuing written advance rulings that:
 - (a) provide that a potential importer in its territory or an exporter or producer in the territory of the other Party may request a ruling prior to the importation that is the subject of the advance ruling request;
 - (b) include a detailed description of the information required to process a request for an advance ruling; and

- (c) provide that an advance ruling will be based on the facts and circumstances presented by the person requesting the ruling.
- 3. Each Party shall provide that its customs authorities:
 - (a) may request, at any time during the course of evaluating a request for an advance ruling, additional information necessary to evaluate the request;
 - (b) shall issue the advance ruling expeditiously, and no later than 120 days after obtaining all necessary information; and
 - (c) shall provide a written explanation of the reasons for the ruling.
- 4. Subject to paragraph 5, each Party shall apply an advance ruling to importations into its territory beginning on the date it issues the ruling or on any other date specified in the ruling. The Party shall apply the treatment provided by the advance ruling to all importations regardless of the importer, exporter, or producer involved, provided that the facts and circumstances are identical in all material respects.
- 5. A Party may modify or revoke an advance ruling on a determination that the ruling was based on an error of fact or law, or where there is a change in law consistent with this Agreement, a change in a material fact, or a change in the circumstances on which the ruling is based. The issuing Party shall postpone the effective date of any such modification or revocation for at least 60 days where the person to whom the ruling was issued has relied in good faith on that ruling.

ARTICLE 6.4 : REVIEW AND APPEAL

- 1. With respect to its determinations relating to customs matters, each Party shall provide that importers in its territory have access to:
 - (a) at least one level of administrative review of determinations by its customs authorities independent of the official or office responsible for the decision under review; and
 - (b) judicial review of decisions taken at the final level of administrative review.

ARTICLE 6.5 : COOPERATION

- 1. Each Party shall endeavour to provide the other Party with advance notice of any significant modification of administrative policy or other similar development related to its laws or regulations governing importations that is likely to substantially affect the operation of this Agreement.

2. The Parties shall, through their competent authorities and in accordance with this Chapter, cooperate in achieving compliance with their respective laws and regulations pertaining to:

- (a) the implementation and operation of this Agreement relating to importation of goods;
- (b) restrictions and prohibitions on imports or exports; and
- (c) such other issues as the Parties may agree.

3. Where a Party has a reasonable suspicion of unlawful activity related to its laws or regulations governing importations, it may request that the other Party provide the following types of information pertaining to trade transactions relevant to the activity if the activity took place no more than five years before the date of the request, or from the date of discovery of the apparent offence in cases of fraud, and in other cases on which the Parties may agree:

- (a) the name and address of the importer, exporter, manufacturer, buyer, vendor, broker, or transporter;
- (b) shipping information relating to container number, size, port of loading before arrival, destination port after departure, name of vessel and carrier, the country of origin, place of export, mode of transportation, port of entry of the goods, and cargo description; and
- (c) classification number, quantity, unit of measure, declared value, and tariff treatment.

4. The Party shall make its request in writing; shall specify the grounds for reasonable suspicion and the purposes for which the information is sought; and shall identify the requested information with sufficient specificity for the other Party to locate and provide the information. The requesting Party may meet this requirement by, *inter alia*, identifying the importer, exporter, country of origin, time period, port or ports of entry, cargo description, or Harmonized System number applicable to the importation or exportation in question.

5. The requested Party shall provide available information that is material to the request.

6. For the purposes of paragraph 3, a Party has a reasonable suspicion of unlawful activity if it is based on one or more of the following types of relevant factual information obtained from public or private sources:

- (a) information gathered over time that a specific importer, exporter, manufacturer, producer, or other person involved in the movement of goods from the territory of one Party to the territory of the other Party has not complied with its laws or regulations governing importations;

- (b) information gathered over time that some or all of the persons involved in the movement of goods within a specific product sector from the territory of one Party to the territory of the other Party have not complied with the Party's laws or regulations governing importations;
- (c) information from trade and transit documents and other information necessary to conduct verifications; or
- (d) other information that the Parties agree is sufficient in the context of a particular request.

7. Each Party shall endeavour to provide the other Party any other information that would assist it in determining whether imports from or exports to the other Party are in compliance with applicable laws or regulations governing importations, including those related to the prevention or investigation of unlawful shipments.

8. On the request of either Party, the Parties shall enter into consultations to resolve any technical or interpretative difficulties that may arise under this Article or to consider ways to improve cooperation. Such consultations may occur between the competent authorities of the Parties directly or through the Committee on Trade in Goods established in Chapter Two (National Treatment and Market Access of Goods). In addition, either Party may request assistance from the other Party in implementing this Article. The requested Party shall endeavour to respond promptly to the request.

9. The Parties shall also endeavour to provide each other with technical advice and information for the purpose of improving risk assessment techniques, simplifying and expediting customs procedures, advancing the technical skills of their personnel, and enhancing the use of technologies that can lead to improved compliance with laws and regulations governing importations.

10. The Parties shall explore additional avenues of cooperation for the purpose of enhancing each Party's ability to enforce its laws or regulations governing importations, including by examining the establishment and maintenance of additional channels of communication to facilitate the secure and rapid exchange of information, and by considering efforts to improve effective coordination on importation issues, building on the mechanisms established in this Article and the cooperation established under any other relevant agreements.

ARTICLE 6.6 : CONFIDENTIALITY

Each Party shall treat information provided pursuant to this Chapter in accordance with Article 22.4 (Disclosure of Information).

ARTICLE 6.7 : PENALTIES

Each Party shall adopt or maintain measures that provide for the imposition of civil or administrative penalties and, where appropriate, criminal penalties for violations of its customs laws and regulations governing classification, valuation, country of origin, and eligibility for preferential treatment under this Agreement.

ARTICLE 6.8 : RELEASE AND SECURITY

1. Each Party shall adopt or maintain procedures:
 - (a) providing for the release of goods within a period no greater than that required to ensure compliance with its customs laws;
 - (b) allowing, to the extent possible, goods to be released within 48 hours of arrival;
 - (c) allowing, to the extent possible, goods to be released at the point of arrival, without interim transfer to customs warehouses or other locations; and
 - (d) allowing importers who have complied with the procedures that the Party may have relating to the determination of value and payment of customs duty to withdraw goods from customs, although the Party may require importers to provide security as a condition for the release of goods when such security is required to ensure that obligations arising from the entry of the goods will be fulfilled.
2. Each Party shall:
 - (a) adopt procedures allowing importers:
 - (i) to provide security such as bank guarantees, bonds, or other non-cash financial instruments;
 - (ii) that regularly enter goods to provide security such as standing bank guarantees, continuous bonds, or other non-cash financial instruments covering multiple entries; and
 - (iii) to provide security in any other forms specified by its customs authorities; and
 - (b) ensure that the amount of any security is no greater than that required to ensure that obligations arising from the importation of the goods will be fulfilled, and, where applicable, shall not be in excess of the amount chargeable, based on tariff rates under domestic and international law, including this Agreement, and based on valuation in accordance with the Customs Valuation Agreement; and

- (c) ensure that any security is discharged as soon as possible after its customs authorities are satisfied that the obligations arising from the importation of the goods have been fulfilled.

ARTICLE 6.9 : RISK ASSESSMENT

Each Party shall employ risk management systems that enable its customs authorities to concentrate inspection activities on high-risk goods and that facilitate the movement of low-risk goods, including systems that allow for information regarding an importation to be processed before the goods arrive.

ARTICLE 6.10 : EXPRESS SHIPMENTS

Each Party shall adopt or maintain separate, expedited customs procedures for express shipments, while maintaining appropriate customs control and selection, including procedures:

- (a) under which the information necessary for the release of an express shipment may be submitted and processed by the Party's customs authorities before the shipment arrives;
- (b) allowing a shipper to submit a single manifest covering all goods contained in a shipment transported by the express shipment service through, if possible, electronic means;
- (c) that, to the extent possible, minimise the documentation required for the release of express shipments; and
- (d) that, under normal circumstances, allow for an express shipment that has arrived at a point of entry to be released no later than six hours after the information necessary for release is submitted.

ARTICLE 6.11 : DEFINITION OF CUSTOMS MATTERS

For the purposes of this Chapter, **customs matters** means matters pertaining to the classification and valuation of goods for customs duty purposes, rates of duty, country of origin, and eligibility for preferential treatment under this Agreement, and all other procedural and substantive requirements, restrictions, and prohibitions that a Party maintains on imports or exports, including those pertaining to goods imported or exported by or on behalf of travellers. Customs matters do not include matters pertaining to antidumping or countervailing duties.