

CHAPTER FIVE CUSTOMS ADMINISTRATION

ARTICLE 5.1: PUBLICATION

1. Each Party shall publish its customs laws, regulations, and administrative procedures on the Internet.
2. Each Party shall designate one or more inquiry points to address inquiries from interested persons concerning customs matters and shall make available on the Internet information concerning procedures for making such inquiries.
3. Further to Article 17.1.2 (Publication), each Party shall, to the extent possible, publish in advance any regulations of general application governing customs matters that it proposes to adopt and shall provide interested persons the opportunity to comment on such proposed regulations prior to their adoption.

ARTICLE 5.2: RELEASE OF GOODS

Each Party shall:

- (a) adopt or maintain procedures providing for the release of goods within a period no greater than that required to ensure compliance with its customs laws and, to the extent possible, within 48 hours of arrival, provided that necessary data submission requirements are fulfilled;
- (b) adopt or maintain procedures allowing, to the extent possible, goods to be released at the point of arrival, without interim transfer to warehouses or other locations;
- (c) adopt or maintain procedures allowing the release of goods prior to, and without prejudice to, the final determination by its customs authority of the applicable customs duties, taxes, and fees, and as part of such procedures may require an importer to provide sufficient guarantee in the form of a surety or other appropriate instrument to ensure payment of any customs duties, taxes, and fees that may ultimately be assessed; and
- (d) otherwise endeavor to adopt or maintain simplified procedures for the release of goods.

ARTICLE 5.3: AUTOMATION

Each Party's customs authority shall:

- (a) endeavor to use information technology that expedites procedures for the importation of goods; and
- (b) in deciding on the information technology to be used for this purpose, take into account international standards.

ARTICLE 5.4: RISK ASSESSMENT

Each Party shall endeavor to adopt or maintain risk management systems that enable its customs authority to concentrate inspection activities on high-risk goods and that simplify the clearance and movement of low-risk goods.

ARTICLE 5.5: COOPERATION

1. Each Party shall endeavor to provide the other Party with advance notice of any significant modification of administrative policy regarding the implementation of its customs laws that is likely to substantially affect the operation of this Agreement.
2. The Parties shall cooperate in achieving compliance with their laws and regulations pertaining to:
 - (a) the implementation and operation of the provisions of this Agreement relating to the importation of goods, including Chapter Four (Rules of Origin) and this Chapter;
 - (b) the implementation and operation of the Customs Valuation Agreement;
 - (c) restrictions or prohibitions on imports or exports; or
 - (d) such other matters relating to the importation or exportation of goods as the Parties may agree.
3. Where a Party has a reasonable suspicion of unlawful activity related to its laws or regulations governing importation, the Party may request that the other Party provide specific confidential information that pertains to that activity and that is normally collected by the other Party in connection with the importation of goods. The Party shall make its request in writing, shall identify the requested information with specificity sufficient to enable the other Party to locate it, and shall specify the purposes for which the information is sought.
4. The other Party shall respond by providing any information that it has collected that is material to the request.
5. For purposes of paragraph 3, **a reasonable suspicion of unlawful activity** means a suspicion based on relevant factual information obtained from public or private sources, including:
 - (a) historical evidence that a specific importer, exporter, producer, or other enterprise involved in the movement of goods from the territory of one Party to the territory of the other Party has not complied with a Party's laws or regulations governing importation;
 - (b) historical evidence that some or all of the enterprises involved in the movement from the territory of one Party to the territory of the other Party of goods within a specific product sector have not complied with a Party's laws or regulations governing importation; or
 - (c) other information that the Parties agree is sufficient in the context of a particular request.
6. Each Party shall endeavor to provide the other Party with any other information that would assist in determining whether imports from or exports to the territory of the other Party are in compliance with the other Party's laws and regulations governing importation, in particular those related to the prevention of unlawful shipments.
7. The United States shall endeavor to provide Bahrain with technical advice and assistance for the purpose of improving risk assessment techniques, simplifying and expediting customs procedures, advancing technical skills, and enhancing the

use of technologies that can lead to improved compliance with laws and regulations governing importation.

8. Building on the procedures established in this Article, the Parties shall use best efforts to explore additional means of cooperation to enhance each Party's ability to enforce its laws and regulations governing importation, including by:

- (a) endeavoring to conclude a mutual assistance agreement between their respective customs authorities within six months after the date of entry into force of this Agreement; and
- (b) considering whether to establish additional channels of communication to facilitate the secure and rapid exchange of information and to improve coordination on customs issues.

ARTICLE 5.6: CONFIDENTIALITY

1. Where a Party providing information to the other Party in accordance with this Chapter designates the information as confidential, the other Party shall maintain the confidentiality of the information. The Party providing the information may require written assurances from the other Party that the information will be held in confidence, will be used only for the purposes specified in the other Party's request for information, and will not be disclosed without the Party's specific permission. The Parties may agree that the information may be used or disclosed for law enforcement purposes or in the context of judicial proceedings.

2. A Party may decline to provide confidential information requested by the other Party where the other Party has failed to act in conformity with assurances provided under paragraph 1.

3. Each Party shall adopt or maintain procedures that protect confidential information submitted in connection with the administration of its customs laws and regulations from unauthorized disclosure, including information the disclosure of which could prejudice the competitive position of the person providing the information.

ARTICLE 5.7: EXPRESS SHIPMENTS

Each Party shall adopt or maintain separate, expedited customs procedures for express shipments, including procedures:

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

ARTICLE 5.8: REVIEW AND APPEAL

Each Party shall ensure that with respect to a determination of the Party on customs matters, the importer in its territory has access to:

- (a) administrative review independent of the official or office that issued the determination; and
- (b) judicial review of the determination.

ARTICLE 5.9: PENALTIES

Each Party shall adopt or maintain measures that provide for the imposition of civil, administrative, and, where appropriate, criminal sanctions for violations of its customs laws, including its laws governing tariff classification, customs valuation, country of origin, and the entitlement to preferential tariff treatment.

ARTICLE 5.10: ADVANCE RULINGS

1. Each Party, through its customs authority, shall issue written advance rulings prior to the importation of a good into its territory at the written request of an importer in its territory, or an exporter or producer in the territory of the other Party, on the basis of the facts and circumstances set forth by the requester, concerning:

- (a) tariff classification;
- (b) the application of customs valuation criteria, including the criteria in the Customs Valuation Agreement;
- (c) duty drawback;
- (d) whether a good qualifies as an originating good; and
- (e) whether a good qualifies for duty-free treatment in accordance with Article 2.6 (Goods Re-entered After Repair or Alteration).

2. Each Party shall provide that its customs authority shall issue advance rulings within 150 days of a request, provided that the requester has submitted all necessary information.

3. Each Party shall provide that advance rulings shall be valid from their date of issuance, or such other date specified by the ruling, for at least three years, provided that the facts and circumstances (including laws and regulations) on which the ruling is based remain unchanged.

4. The issuing Party may modify or revoke an advance ruling when facts or circumstances warrant, such as where the information on which the ruling is based is false or inaccurate.

5. Where an importer claims that the treatment accorded to an imported good should be governed by an advance ruling, the customs authority may evaluate whether the facts and circumstances of the importation are consistent with the facts and circumstances upon which the advance ruling was based.

6. Each Party shall make its advance rulings publicly available, subject to confidentiality requirements in its law.

7. If a requester provides false information or omits relevant circumstances or facts in its request for an advance ruling, or does not act in accordance with the

ruling's terms and conditions, the importing Party may apply appropriate measures, including civil, criminal, and administrative penalties or other sanctions.

8. For purposes of this Article, **advance ruling** means a written response by a Party to a request made in accordance with this Article, setting forth the official position of the Party on the interpretation of its relevant laws and regulations pertaining to a matter referenced in paragraph 1(a) through (e), as applied to a specific, prospective customs transaction.

9. This Article shall apply to Bahrain beginning two years after the date of entry into force of this Agreement.

ARTICLE 5.11: TECHNICAL COOPERATION AND IMPLEMENTATION

1. Within 120 days after the date of entry into force of this Agreement, the Parties shall consult and establish a work program on procedures that Bahrain may adopt to implement Article 5.10 and shall consult on technical assistance that the United States may provide to assist Bahrain in that endeavor.

2. Not later than 18 months after the date of entry into force of this Agreement, the Parties shall consult on Bahrain's progress in implementing Article 5.10 and on whether to undertake further cooperative activities.