

CHAPTER 5

CUSTOMS PROCEDURES AND COOPERATION

Article 44 Definitions

For the purposes of this Chapter:

customs administration means:

- (a) in relation to China, the General Administration of Customs of the People's Republic of China; and
- (b) in relation to New Zealand, the New Zealand Customs Service;

customs law means any legislation administered, applied, or enforced by the customs administration of a Party;

customs procedures means the treatment applied by each customs administration to goods and means of transport that are subject to customs control;

Customs Valuation Agreement means the *Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994*, which is part of the WTO Agreement;

means of transport means various types of vessels, vehicles, aircraft and pack-animals which enter or leave the territory carrying persons, goods or articles.

Article 45 Scope and Objectives

1. This Chapter shall apply, in accordance with the Parties' respective international obligations and domestic customs law, to customs procedures applied to goods traded between the Parties and to the movement of means of transport between the Parties.

2. The objectives of this Chapter are to:

- (a) simplify and harmonise customs procedures of the Parties;
- (b) ensure predictability, consistency and transparency in the application of customs laws and administrative procedures of the Parties;

- (c) ensure the efficient and expeditious clearance of goods and means of transport;
- (d) facilitate trade between the Parties; and
- (e) promote cooperation between the customs administrations, within the scope of this Chapter.

Article 46 Competent Authorities

The competent authorities for the administration of this Chapter are:

- (a) in relation to China, the General Administration of Customs of the People's Republic of China; and
- (b) in relation to New Zealand, the New Zealand Customs Service.

Article 47 Facilitation

1. Each Party shall ensure that its customs procedures and practices are predictable, consistent, transparent and facilitate trade.
2. Customs procedures of each Party shall, where possible and to the extent permitted by their respective customs law, conform with the trade-related instruments of the WCO to which that Party is a contracting party, including those of the *International Convention on the Simplification and Harmonization of Customs Procedures (as amended)*, known as the Revised Kyoto Convention.
3. Customs administrations of the Parties shall facilitate the clearance of goods in administering their procedures.
4. Each customs administration shall endeavour to provide a focal point, electronic or otherwise, through which its traders may submit all required regulatory information in order to obtain clearance of goods.

Article 48 Customs Valuation

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

Article 49 Tariff Classification

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

Article 50 Customs Cooperation

To the extent permitted by their domestic laws, the customs administrations of the Parties shall assist each other, in relation to:

- (a) the implementation and operation of this Chapter; and
- (b) such other issues as the Parties mutually determine.

Article 51 Appeal

1. The legislation of each Party shall provide for the right of appeal without penalty in regard to customs administrative rulings, determinations or decisions by the importer, exporter or any other person affected by that administrative ruling, determination or decision.

2. An initial right of appeal by a person described in paragraph 1 may be to an authority within the customs administration or to an independent body, but the legislation of each Party shall provide for the right of appeal without penalty to a judicial authority.

3. Notice of the decision on appeal shall be given to the appellant and the reasons for such decision shall be provided in writing.

Article 52 Advance Rulings

1. Each customs administration shall provide in writing rulings in respect of the tariff classification and origin of goods to a person described in paragraph 2(a).

2. Each customs administration shall adopt or maintain procedures, which shall:

- (a) provide that an exporter, importer or any person with a justifiable cause may apply, in the national language of the issuing customs administration, for a ruling at least 3 months before the date of importation of the goods that are the subject of the application. An applicant for an advance ruling on tariff classification from China Customs shall be registered with China Customs;
- (b) require that an applicant for a ruling provide a detailed description of the goods and all relevant information needed to issue a ruling;

- (c) provide that its customs administration may, at any time during the course of issuing a ruling, request that the applicant provide additional information within a specified period;
 - (d) provide that any 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 the ruling be issued, in the national language of the issuing customs administration, to the applicant expeditiously on receipt of all necessary information, or in any case within:
 - (i) 60 days with respect to tariff classification; and
 - (ii) 90 days with respect to origin.
- 3. A Party may reject requests for a ruling where the additional information requested by it in accordance with subparagraph 2(c) is not provided within a specified time.
- 4. Subject to paragraph 5, each Party shall apply a ruling to all importations of goods described in that ruling into its territory through any port of entry within 3 years of the date of that ruling or such other period as required by that Party's domestic legislation.
- 5. A Party may modify or revoke a ruling:
 - (a) upon a determination that the ruling was based on an error of fact or law, or the information provided is false or inaccurate;
 - (b) if there is a change in domestic law consistent with this Agreement; or
 - (c) if there is a change in a material fact or circumstances on which the ruling is based.
- 6. Subject to the confidentiality requirements of a Party's domestic law, each Party shall publish its rulings.
- 7. Where an importer claims that the treatment accorded to an imported good should be governed by a ruling, the customs administration may evaluate whether the facts and circumstances of the importation are consistent with the facts and circumstances upon which a ruling was based.

Article 53 Use of Automated Systems in the Paperless Trading Environment

The customs administrations shall apply information technology to support customs operations, where it is cost-effective and efficient, particularly in the paperless trading context, taking into account developments in this area within the WCO.

Article 54 Risk Management

Each customs administration shall focus resource on high-risk goods and facilitate the clearance of low-risk goods in administering customs procedures.

Article 55 Publication and Enquiry Points

1. Each customs administration shall publish all customs laws and any administrative procedures it applies or enforces.
2. Each customs administration shall designate one or more enquiry points to deal with inquiries from interested persons from either Party on customs matters arising from the implementation of this Agreement, and provide details of such enquiry points to the other customs administration.
3. Each customs administration shall provide the other customs administration with timely notice of any significant modification of customs laws or procedures governing the movement of goods and means of transport that is likely to substantially affect the operation of this Chapter.

Article 56 Express Consignments

Each customs administration shall adopt procedures to expedite the clearance of express consignments.

Article 57 Release of Goods

Each Party shall adopt or maintain procedures which allow goods to be released within 48 hours of arrival unless:

- (a) the importer fails to provide any information required by the importing Party at the time of first entry;
- (b) the goods are selected for closer examination by the competent authority of the importing Party through the application of risk management techniques;

- (c) the goods are to be examined by any agency, other than the competent authority of the importing Party, acting under powers conferred by the domestic legislation of the importing Party; or
- (d) fulfilment of all necessary customs formalities has not been able to be completed or release is otherwise delayed by virtue of *force majeure*.

Article 58 Review of Customs Procedures

1. Each customs administration shall periodically review its procedures with a view to their further simplification and the development of mutually beneficial arrangements to facilitate the flow of trade between the Parties.
2. In applying a risk management approach to customs control, each customs administration shall regularly review the performance, effectiveness and efficiency of its systems.

Article 59 Consultation

1. Either customs administration may at any time request consultations with the other customs administration on any matter arising from the operation or implementation of this Chapter. Such consultations shall be conducted through the relevant contact points, and shall take place within 30 days of the request, unless the customs administrations of the Parties mutually determine otherwise.
2. In the event that such consultations fail to resolve any such matter, the requesting Party may refer the matter to the Committee on Trade in Goods for consideration.
3. Each customs administration shall designate one or more contact points for the purposes of this Chapter and provide details of such contact points to the other Party. Customs administrations of the Parties shall notify each other promptly of any amendments to the details of their contact points.
4. Customs administrations may consult each other on any trade facilitation issues arising from procedures to secure trade and the movement of means of transport between the Parties.