

CHAPTER 4
CUSTOMS PROCEDURES AND TRADE FACILITATION

ARTICLE 48

Customs Procedures and Trade Facilitation

The Parties, with the aim to facilitate trade between them, shall:

- (a) simplify, to the greatest extent possible, customs and border-related procedures for trade in goods and related services;
- (b) promote co-operation between them in order to enhance their participation in the development and implementation of international conventions and recommendations on trade facilitation; and
- (c) co-operate on trade facilitation within the framework of the Joint Committee.

ARTICLE 49

General Principles

The Parties, aiming to serve the interests of their respective business communities and to create a trading environment allowing them to benefit from the opportunities offered by the Agreement, agree that in particular the following principles are the basis for the development and administration of trade facilitation measures by their customs authorities and competent authorities of trade-related affairs:

- (a) transparency, efficiency, simplification, harmonization and consistency of customs and other border-related procedures;
- (b) consistent, impartial, predictable and reasonable administration of laws, regulations and administrative rules relevant to international trade in goods;
- (c) promotion of international standards;
- (d) consistency with multilateral instruments;
- (e) best possible use of information technology;
- (f) high standards of public service;
- (g) customs and other border controls based on risk management;
- (h) cooperation within each Party among customs and other border authorities; and
- (i) consultations between the Parties and their respective business communities.

ARTICLE 50

Transparency

1. Each Party shall promptly make available and update, as far as practicable in English, the following through Internet:

- (a) all laws, regulations, administrative rules of general application relevant to trade in goods;
- (b) a description of its importation, exportation and transit procedures, including review and appeal procedures, that informs interested persons of the practical steps needed to import, export or transit of the goods;
- (c) the forms and documents required for importation, exportation, or transit through the customs territory of that Party; and
- (d) contact information on enquiry points.

2. Each Party shall establish enquiry points for customs and other border-related matters relevant to trade in goods, which may be contacted in English via the Internet. The Parties shall not require the payment of a fee for answering such enquiries.

3. Each Party shall consult its business community on its needs with regard to the development and implementation of trade facilitation measures, giving particular attention to the interests of small and medium-sized enterprises.

4. Each Party shall to the extent practicable and in a manner consistent with its domestic law and legal system, publish in advance, and on the Internet, any proposed laws and regulations relevant to international trade, with a view to affording interested persons an opportunity to comment on them.

5. Each Party shall ensure that a reasonable interval is provided between the publication of laws and regulations relevant to international trade and their entry into force.

ARTICLE 51

Simplification of International Trade Procedures

1. The Parties shall apply customs and border procedures related to bilateral trade that are simple, reasonable and impartial.

2. The Parties shall limit controls, formalities and the number of documents required in the context of trade in goods between the Parties to those necessary and appropriate to ensure compliance with legal requirements and thereby simplify to the greatest extent possible the respective procedures. With a view to minimising the incidence and complexity of import, export and transit formalities and to decreasing and simplifying import, export and transit documentation requirements, each Party shall ensure that such formalities and documentation requirements:

- (a) are applied with a view to a rapid clearance and release of goods;
- (b) are applied in a manner that aims at reducing the time and cost of compliance; and
- (c) are the least trade restrictive measure chosen.

3. The importing Party shall not require an original or a copy of the export declaration from the importer unless it is through the channel of bilateral customs mutual administrative assistance and on certain conditions.

4. The Parties shall use efficient customs and trade-related procedures, with a view to reducing costs and unnecessary delays in trade between them, based, as appropriate, on international standards, in particular the standards, guidelines and recommendations of the World Customs Organization (WCO) including the principles of the Revised International Convention on the Simplification and Harmonization of Customs Procedures (Revised Kyoto Convention), the Codex Alimentarius Commission (CAC), the World Organization for Animal Health (WOAH), the United Nations Centre for Trade Facilitation and Electronic Business (UN/CEFACT), the International Organization for Standardization (ISO), the International Electrotechnical Commission (IEC), the International Telecommunication Union (ITU) and the relevant international and regional organizations operating within the framework of the International Plant Protection Convention (IPPC).

5. Each Party shall adopt or maintain procedures that:

- (a) provide for advance electronic submission and processing of information before the physical arrival of goods in order to expedite their clearance, if the information technology conditions are met;
- (b) allow importers to obtain the release of goods prior to meeting all import requirements of that Party if the importer provides sufficient guarantees and where it is decided that neither further examination, physical inspection nor any other submission is required;
- (c) provide for the possibility of electronic payment for duties, taxes, fees and charges collected by customs and other related border authorities; and
- (d) allow goods intended for import to be moved within the customs territory of the Party under customs control from the customs supervision place of entry to another customs supervision place from where the goods would then be cleared or released.

ARTICLE 52

Competent Customs Offices

1. Each Party shall designate the customs offices at which goods may be presented or cleared. In determining the competence and location of these offices and their hours of business, the factors to be taken into account shall include in particular the requirements of trade.

2. Each Party shall, subject to the availability of resources, perform customs controls and procedures outside the designated business hours or outside the premises of the competent customs offices if so requested by a trader for a valid reason. Any related fee or charge shall be limited to the approximate cost of the services rendered.

ARTICLE 53

Risk Management

1. Each Party shall determine which persons, goods, or means of transport are to be examined and the extent of the examination, based on risk management.

2. In identifying and addressing risks related to the entry, exit, transit, transfer or end-use of goods moved between the customs territories of the Parties, or to the presence of goods that are not in free circulation, the Parties shall systematically apply objective risk management procedures and practices.

3. Each Party's border procedures related to customs controls and international trade, including its documentary examinations, physical examinations or post-audit examinations, shall be on a scientific basis and not be more onerous than necessary to limit its exposure to the risks referred to in paragraph 2.

ARTICLE 54

Advance Rulings

1. The customs authority of each Party shall issue, free of charge, a binding, written advance ruling, in a reasonable, time-bound manner, prior to the importation of a good into its customs territory, at the written request containing all necessary information, on an application of the exporter, importer, or any person with a justifiable cause or a representative thereof ¹, with respect to:

- (a) origin of a good;
- (b) tariff classification of a good; and
- (c) such other matters as the Parties may agree.

2. A Party that declines to issue an advance ruling shall promptly notify the applicant in writing, setting forth the basis for its decision to decline to issue the advance ruling.

3. Each Party shall provide that an advance ruling shall be valid from the date it is issued, or another date specified in the advance ruling, provided that the laws, regulations, administrative rules, and the facts or circumstances, on which the advance ruling is based remain unchanged.

4. The customs authority of the importing Party may revoke or invalidate an advance ruling, on certain conditions in accordance with its domestic laws and regulations.

5. Each Party shall endeavour to make information on advance rulings, which it considers to be of significant interest to other traders, publicly available, taking into account the need to protect confidential information.

ARTICLE 55

¹ An applicant for an advance ruling from China shall be registered with China Customs.

authorized Economic Operator System

The rights and obligations of the Parties in respect of the Authorized Economic Operators System shall be governed by the Agreement between the Government of the People's Republic of China and the Government of the Republic of Serbia regarding mutual recognition of the enterprise credit management programme of the General Administration of Customs of the People's Republic of China and the AEO programme of the Customs Administration of the Ministry of Finance of the Republic of Serbia.

ARTICLE 56

Customs Brokers

The customs systems and procedures of each Party shall enable exporters and importers to submit their customs declaration without requiring recourse to customs brokers.

ARTICLE 57

Fees and Charges

1. Each Party shall ensure, in accordance with paragraph 1 of Article VIII of the GATT 1994, that all fees and charges of whatever character (other than customs duties, charges equivalent to an internal tax or other internal charge applied consistently with paragraph 2 of Article III of the GATT 1994, and anti-dumping and countervailing duties) imposed on or in connection with import or export are limited in amount to the approximate cost of services rendered and do not represent an indirect protection to domestic goods or a taxation on imports or exports for fiscal purposes.

2. Each Party shall publish information on fees and charges. The Parties shall endeavor to publish this information on the Internet. Such information may include the type of the fee or charge, the fees and charges that will be applied and the way they are calculated.

3. Upon request, a Party shall provide information on fees and charges applicable to imports of goods into that Party.

ARTICLE 58

Penalties

Each Party shall adopt or maintain measures that allow for the imposition of administrative penalties and, where appropriate, criminal sanctions for violations of its customs laws and regulations, including those governing tariff classification, customs valuation, rules of origin, and claims for preferential tariff treatment under this Agreement.

ARTICLE 59

Temporary Admission of Goods

1. Each Party shall allow temporary admission of goods in accordance with international standards that the Party committed and the Party's domestic laws and regulations.

2. For the purposes of this Article, "temporary admission" means customs procedures under which certain goods may be brought into a customs territory conditionally relieved from payment of customs duties. Such goods must be imported for a specific purpose, and must be intended for re-exportation within a specified period and without having undergone any change except normal depreciation due to the use made of them.

ARTICLE 60

Inward and Outward Processing

1. Each Party shall allow temporary importation and exportation for inward processing and outward processing of goods in accordance with international standards that the Party committed and the Party's domestic laws and regulations.

2. For the purposes of this Article:

(a) "inward processing" means customs procedures under which certain goods can be brought into a customs territory conditionally relieved from payment of customs duties on the basis that such goods are intended for manufacturing, processing or repair and subsequent exportation, and

(b) "outward processing" means customs procedures under which certain goods, which are in free circulation in a customs territory, may be temporarily exported for manufacturing, processing or repair abroad and then re-imported with total or partial exemption from customs duties.

ARTICLE 61

Border Agency Cooperation

Each Party shall ensure that its authorities and agencies involved in border and other import and export controls cooperate and coordinate their procedures in order to facilitate trade.

ARTICLE 62

Review and Appeal

Each Party shall, in accordance with its laws and regulations, provide that the importer, exporter, or any other person affected by those administrative determinations or decisions concerning customs issues, have access to:

(a) a level of administrative review of determinations or decisions by its customs administration, independent of the official or office responsible for the decision under review; and

(b) judicial review of the administrative determinations or decisions subject to its laws and regulations.

ARTICLE 63

Confidentiality

All information provided in relation with the importation, exportation, advance rulings or transit of goods shall be treated as confidential by the Parties and shall be covered by the obligation of professional secrecy, in accordance with the respective laws of each Party. Such information shall not be disclosed by the authorities of a Party without the express permission of the person or authority providing it.

ARTICLE 64

Cooperation and Consultation

1. The Parties may identify, and submit to the Joint Committee for consideration, additional measures with a view to facilitating trade between them.

2. The Parties shall promote international cooperation in relevant multilateral fora on trade facilitation. The Parties shall review relevant international initiatives in order to identify, and may submit to the Joint Committee for consideration, further areas where joint action could contribute to their common objectives.

3. The customs authorities of the Parties shall provide mutual administrative cooperation to ensure the proper application of customs law, the review of customs procedures, the prevention, investigation, and combating of customs offenses as to achieve a satisfactory balance between effective control and facilitation.

4. The customs authorities of the Parties shall push forward cooperation based on “Smart Customs, Smart Borders, and Smart Connectivity” in order to enhance mutual trust and promote trade facilitation to achieve a high level connectivity between the Parties.

5. Either Party may request consultations on matters arising from the operation or implementation of this Chapter. Such consultation shall be conducted through the relevant contact points of the respective customs authority. Information on the contact points shall be provided to the other Party and any amendment of the said information shall be notified promptly.