

CHAPTER 4
CUSTOMS PROCEDURES AND TRADE FACILITATION

Article 4.1
Definitions

For the purposes of this Chapter:

“arrival” means:

- (a) with respect to New Zealand, arrival at a Customs port, Customs airport, or at an alternative place of arrival authorised by Customs;
- (b) for the United Kingdom, arrival at the point at which the goods are presented to customs;

“customs law” means any law administered, applied, or enforced by the customs authority of a Party governing the import, export, and transit of goods as well as other customs procedures, including measures of prohibition, restriction, and control of a Party in their respective territories;

“customs procedure” means the measures applied by the customs authority of a Party to goods and to the means of transport that are subject to customs laws;

“expedited shipments” means goods imported by or through an operator of a consignment service for the expeditious cross-border movement of goods which assumes liability to the customs authority for those goods or goods imported by traders and operators fulfilling other criteria specified in the Parties’ laws and regulations; and

“WCO” means the World Customs Organization.

Article 4.2
Scope

1. This Chapter shall apply to customs laws and procedures applied to goods traded between the Parties.
2. Each Party shall use its available resources in an appropriate way to implement this Chapter.

Article 4.3
Customs Procedures and Trade Facilitation

1. Each Party shall ensure that its customs procedures and customs laws are applied in a manner that is predictable, consistent, transparent, and non-discriminatory.
2. The Parties affirm their rights and obligations under the *Agreement on Trade Facilitation* done at Geneva on 27 November 2014.
3. The customs procedures of each Party shall conform, where possible, to international standards and recommended practices established by the WCO and under other relevant international agreements to which the Parties are party.
4. Each Party shall adopt and maintain simplified customs procedures to ensure the efficient and expeditious clearance of goods.
5. Each Party shall review their customs procedures with a view to their simplification in order to facilitate trade including through the rapid release and clearance of goods. Each Party shall work towards further simplification of data and documentation required by their customs authority.
6. The Parties shall seek to reinforce their cooperation to promote trade facilitation while ensuring effective customs control.

Article 4.4
Customs Cooperation

1. Without prejudice to other forms of cooperation provided for in this Agreement, the customs authorities of the Parties shall cooperate, including by exchanging information, and provide mutual administrative assistance in the matters referred to in this Chapter in accordance with the *Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of New Zealand on Cooperation and Mutual Administrative Assistance in Customs Matters* done at London on 1 August 2019.
2. The customs authorities of the Parties shall enhance cooperation on the matters referred to in this Chapter with a view to further developing trade facilitation while ensuring compliance with their respective customs laws, regulations, and procedural requirements, and improving supply chain security, in the following areas:
 - (a) the operation of the provisions of this Chapter governing importations or exportations;

- (b) the harmonisation of data requirements for customs purposes, in line with applicable international standards such as the WCO standards;
 - (c) further development of the customs-related aspects of securing and facilitating the international trade supply chain in accordance with the SAFE Framework;
 - (d) the application and operation of the Customs Valuation Agreement;
 - (e) improvement of their risk management techniques, including sharing best practices and, if appropriate, risk information and control results;
 - (f) cooperation in international organisations, such as the WTO and the WCO, on matters of common interest, including tariff classification, customs valuation and origin, with a view to establishing, if possible, common positions; and
 - (g) other matters as the Parties may decide.
3. The customs authorities of the Parties shall ensure the exchange of information necessary for the purposes of paragraph 2.

Article 4.5

Transparency and Publication

1. Each Party shall promptly publish, in a non-discriminatory and easily accessible manner including online, its laws, regulations, and general administrative procedures and guidelines, related to customs. This includes:
- (a) importation, exportation, and transit procedures (including port, airport, and other entry point procedures), and required forms and documents;
 - (b) applied rates of 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 products 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; and
 - (k) hours of operation and general operating procedures for customs offices at ports and border crossing points.
2. Each Party shall ensure that new or amended laws and regulations of general application related to customs matters are published, or information on them is otherwise made publicly available, as early as possible before their entry into force, in order to enable traders and other interested parties to become acquainted with them.
 3. Changes to duty rates or tariff rates, measures that have a relieving effect, measures the effectiveness of which would be undermined as a result of compliance with paragraphs 1 and 2, measures applied in urgent circumstances, or minor changes to domestic law and legal systems are each excluded from paragraphs 1 and 2.
 4. Each Party shall establish or maintain one or more enquiry points to address enquiries of interested parties or persons concerning customs matters and shall make information concerning the procedures for making such enquiries publicly available online. 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.
 5. Each Party shall, as appropriate, provide for regular consultations between border agencies and traders or other stakeholders within its territory.

Article 4.6

Data and Documentation

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:
 - (a) are adopted or applied with a view to a rapid release of goods, in order to facilitate trade; and

- (b) are adopted or applied in a manner that aims to reduce the time and cost of compliance for traders and operators.
- 2. Each Party shall:
 - (a) make electronic systems accessible to customs users;
 - (b) allow a customs declaration to be submitted in electronic format;
 - (c) employ electronic or automated risk management systems; and
 - (d) permit the electronic payment of duties, taxes, fees, and charges collected by customs and incurred upon importation and exportation.
- 3. The Parties shall endeavour to cooperate on the development of interoperable electronic systems, in order to facilitate trade between the Parties.

Article 4.7 **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) deferred payment of customs duties and taxes until after the release of those imported goods;
 - (c) aggregated customs declarations for the payment of customs duties and taxes that may cover multiple imports and enable payment at monthly or quarterly intervals; and
 - (d) 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 4.8

Expedited Shipments

1. Each Party shall adopt or maintain expedited customs procedures for expedited shipments while maintaining appropriate customs control and selection. These procedures shall:
 - (a) provide for the submission and processing of information in advance of the arrival of a shipment to expedite its release;
 - (b) allow for a single submission of information covering all goods contained in a shipment through, if possible, electronic means;¹
 - (c) to the extent possible, provide for the release of certain goods with a minimum of documentation or a reduced set of data;
 - (d) provide, in normal circumstances, for an expedited shipment to be released within six hours of arrival, provided:²
 - (i) all information and documentation necessary to release the goods have been submitted on or prior to arrival; and
 - (ii) the goods are not subject to physical examination or inspection;
 - (e) apply to shipments of any weight or value recognising that a Party may require additional entry procedures as a condition for release, including declarations and supporting documentation and payment of customs duties; and
 - (f) provide that, under normal circumstances, no customs duties will be assessed on expedited shipments valued at or below a fixed amount set under a Party's law.
2. If a Party does not provide the treatment in subparagraphs 1(a) to 1(f) to all shipments, that Party shall provide a separate and expedited customs procedure that provides that treatment for expedited shipments.

Article 4.9

Release of Goods

1. Each Party shall adopt or maintain customs procedures that:

¹ For greater certainty, additional documents may be required as a condition for release.

² Nothing in this subparagraph requires a Party to release a good if other regulatory requirements for release have not been met.

- (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, as soon as possible on or following arrival but in any case within 48 hours of arrival, provided that in all cases:
 - (i) all information and documentation necessary to release the goods have been submitted on or prior to arrival; and
 - (ii) the goods are not to be subject to physical examination or inspection;
 - (b) provide for advance electronic submission and processing of information before the physical arrival of the goods to enable release of the goods on arrival;
 - (c) allow goods to be released without temporary transfer to warehouses or other facilities; and
 - (d) allow for the release of goods prior to the final determination of customs duties, taxes, fees, and charges, if that determination is not done prior to, or promptly upon arrival and provided that all other regulatory requirements have been met. Before releasing the goods, a Party may require that an importer provides sufficient security in the form of a surety, a deposit, or some other appropriate instrument.
- 2. If a Party allows for the release of goods conditional on a security in accordance with subparagraph 1(d), it shall adopt or maintain procedures that:
 - (a) 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;
 - (b) ensure that any security is discharged as soon as possible after its customs authority is satisfied that the obligations arising from the importation of the goods have been fulfilled; and
 - (c) allow importers to provide security using an appropriate instrument, including, in appropriate cases where an importer frequently enters goods, instruments covering multiple entries.
- 3. Nothing in this Article requires a Party to release a good if other regulatory requirements for release have not been met.

Article 4.10

Perishable Goods

1. For the purposes of this Article, perishable goods are goods that rapidly decay due to their natural characteristics, in particular in the absence of appropriate storage conditions.
2. With a view to preventing avoidable loss or deterioration of perishable goods, each Party shall:
 - (a) provide, in normal circumstances, for perishable goods to be released within six hours of arrival, provided:³
 - (i) all information and documentation necessary to release the goods have been submitted on or prior to arrival; and
 - (ii) the goods are not to be subject to physical examination or inspection; and
 - (b) release perishable goods outside the business hours of its customs authority in exceptional circumstances, if it would be appropriate to do so.
3. Each Party shall give appropriate priority to perishable goods when scheduling any examinations that may be required.
4. Each Party shall either arrange, or allow an importer to arrange, for the proper storage of perishable goods pending their release. Each Party may require that any storage facilities arranged by the importer be approved or designated by its relevant authorities. Each Party shall, if practicable and consistent with its laws and regulations, on request of the importer, provide for the release to take place at those storage facilities.

Article 4.11

Risk Management

1. Each Party shall adopt or maintain a risk management system which shall include the use of 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 as to avoid arbitrary or unjustifiable discrimination, or disguised restrictions to international trade.

³ Nothing in this subparagraph requires a Party to release a good if other regulatory requirements for release have not been met.

3. Each Party shall base risk management on assessment of risk through appropriate selectivity criteria.
4. Each Party may also 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 specified in paragraph 1.

Article 4.12 **Advance Rulings**

1. Each Party shall issue through its customs authority an advance ruling to an applicant that has submitted a written request with respect to:
 - (a) tariff classification;
 - (b) whether a good is originating in accordance with Chapter 3 (Rules of Origin and Origin Procedures); and
 - (c) such other matters as the Parties may decide.
2. On receipt of all necessary information, each Party shall issue an advance ruling referred to in subparagraphs 1(a) or 1(b) as soon as practicable and in any event within 90 days or in such shorter time as prescribed in each Party's customs law.
3. A Party may request that the applicant provide additional information at any time during the course of an evaluation of an application for an advance ruling, which may include a sample of the good, necessary to evaluate the request.
4. A Party may decline to issue an advance ruling if the facts and circumstances forming the basis of the advance ruling are the subject of administrative or judicial review, or in circumstances set out in each Party's customs law. 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.
5. A Party may modify or revoke an advance ruling that it has issued if:
 - (a) the ruling was made in error or based on an error of fact;
 - (b) the information provided is false or inaccurate;
 - (c) there is a change in the material facts or circumstances on which the ruling was based; or

- (d) a change is required to conform with a judicial decision or a change in its laws and regulations.
- 6. A Party may only revoke, modify, or invalidate an advance ruling with retroactive effect, if the ruling was based on incomplete, incorrect, inaccurate, false, or misleading information provided by the applicant.
- 7. When a Party revokes, modifies, or invalidates the advance ruling, it shall provide written notice to the applicant setting out the relevant facts and the basis for its decision.
- 8. Each Party shall publish online, at least:
 - (a) the requirements for the 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.
- 9. An advance ruling issued by a Party shall be binding on that Party in respect of the applicant that sought it and on the applicant.
- 10. Each Party shall provide, upon written request of an applicant, a review or appeal of the advance ruling or of the decision to revoke, modify, or invalidate it.
- 11. Subject to any confidentiality requirements in its laws and regulations, a Party may publish its advance rulings, including online.

Article 4.13 Customs Valuation

For the purpose of determining the customs value of goods traded between the Parties, Part I of the Customs Valuation Agreement shall apply.

Article 4.14 Single Window⁴

- 1. Each Party shall adopt or maintain single window systems enabling traders to submit documentation or data requirements for the exportation,

⁴ This Article shall not apply to the Isle of Man until such time it adopts a single window system in accordance with paragraphs 1 to 3.

importation, and transit of goods through a single entry point to the participating authorities or agencies.

2. In cases where documentation or data requirements have already been received through the single window, the same documentation or data requirements shall not be requested by participating authorities or agencies except in urgent circumstances and other limited exceptions which are made public.
3. Each Party shall adopt or maintain procedures to determine duties and taxes upon the submission of the customs declaration through the single window and to allow collection of payment electronically upon approval of the customs declaration.

Article 4.15 **Authorised Economic Operator⁵**

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. Each Party's programme shall operate in accordance with internationally recognised standards which the respective Parties have accepted, such as the WCO SAFE Framework and Article 7.7 of the Agreement on Trade Facilitation.
2. The specified criteria to qualify as an AEO shall be published and relate to compliance, or the risk of non-compliance, with requirements specified in the Parties' laws, regulations, or procedures.
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 and shall allow the participation of small and medium-sized enterprises.

Article 4.16 **Customs Brokers**

The Parties:

- (a) agree that their respective customs provisions and procedures shall not require the mandatory use of customs brokers;
- (b) shall publish any measures on the use of customs brokers; and

⁵ This Article shall not apply to the Bailiwick of Jersey or the Bailiwick of Guernsey until such time Jersey or Guernsey adopt an Authorised Economic Operator programme consistent with the Agreement on Trade Facilitation.

- (c) shall apply transparent, non-discriminatory, and proportionate rules if and when licensing customs brokers.

Article 4.17 **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 to:
 - (a) an appeal to or review by an administrative authority higher than or independent of the official or office that issued the decision; and
 - (b) a judicial appeal or review of the decision.
3. Each Party shall ensure that, in a case where the decision on appeal or review under subparagraph 2(a) is not given within the period of time provided for in its laws and regulations or without undue delay, the person has the right to further administrative or judicial appeal or review or any other recourse to judicial authority in accordance with that Party's laws and regulations.
4. Each Party shall provide a person to whom it issues an administrative decision with the reasons for the decision, in writing, so as to enable the person to have recourse to appeal procedures where necessary.

Article 4.18 **Penalties**

1. Each Party shall ensure that any penalties imposed for breaches of its customs law or customs procedures be proportionate and non-discriminatory. Any penalty imposed shall depend on the facts and circumstances of the case and shall be commensurate with the degree and severity of the breach.
2. Each Party is encouraged to require its customs authority, when imposing a penalty for a breach of its customs law or customs procedures, to consider as a potential mitigating factor the voluntary disclosure of the breach prior to its discovery by the customs authority.
3. Each Party shall ensure that, if a penalty is imposed for a breach of customs law or customs procedures, an explanation in writing is provided to the person upon whom the penalty is imposed, specifying the nature of the breach and the applicable customs law or customs procedures under which the amount or range of penalty for the breach has been prescribed.

4. Each Party shall provide in its laws, regulations, or customs procedures, or shall 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 its customs law or customs procedures.

Article 4.19 **Transit and Transportation**

Each Party shall:

- (a) ensure the facilitation and effective control of transshipment operations and transit movements within its respective territory;
- (b) where appropriate, promote and implement regional transit arrangements with a view to facilitating trade;
- (c) ensure cooperation and coordination between all concerned authorities and agencies in its respective territory 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 4.20 **Post Clearance Audit**

1. With a view to expediting the release of goods, each Party shall:
 - (a) adopt or maintain post-clearance audit to ensure compliance with customs law;
 - (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. 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; and
 - (d) wherever practicable, use the result of post-clearance audit in applying risk management.

2. The Parties acknowledge that the information obtained in a post-clearance audit may be used in further domestic administrative or judicial proceedings.

Article 4.21 Confidentiality

1. Each Party shall maintain, in conformity with its law, the confidentiality of information collected as part of its customs processes, including determination of origin, and shall protect that information from use or disclosure that could prejudice the competitive position of the trader to whom the confidential information relates. Where information is provided to one Party by the other Party, and the Party receiving the information is required by its law to disclose the information, the receiving Party shall notify the Party who provided that information wherever possible in advance of that disclosure.
2. Confidential information collected pursuant to this Chapter or Chapter 3 (Rules of Origin and Origin Procedures) shall only be used or disclosed for the purpose of administration and enforcement of customs matters, including determination of origin, or as otherwise provided under the Party's law, except with the permission of the person or the Party who provided the confidential information. Where that permission is sought from, and has been granted by a Party, such use shall then be subject to any restrictions laid down by that Party.
3. Paragraph 2 shall not preclude the use of information collected as part of its customs processes as evidence in proceedings or charges subsequently instituted before the courts or tribunals for failure to comply with a Party's law. Where the information is received from the other Party, the Party shall notify the Party who provided the information in advance of such use.
4. If confidential information is used or disclosed other than in accordance with this Article, the Party shall address the incident, in accordance with its law or procedures, and review or update its processes and safeguards, as appropriate, to prevent a reoccurrence.

Article 4.22 Rules of Origin and Customs and Trade Facilitation Working Group

The Rules of Origin and Customs and Trade Facilitation Working Group established under Article 30.10 (Working Groups – Institutional Provisions) shall be responsible for the effective implementation and operation of this Chapter.