

## CHAPTER 4

### CUSTOMS PROCEDURES

#### Article 1 Objectives

The objectives of this Chapter are to:

- (a) ensure predictability, consistency and transparency in the application of customs laws and regulations of the Parties;
- (b) promote efficient, economical administration of customs procedures, and the expeditious clearance of goods;
- (c) simplify customs procedures; and
- (d) promote co-operation among the customs administrations of the Parties.

#### Article 2 Scope

This Chapter applies, in accordance with the Parties' respective laws, regulations and policies, to customs procedures applied to goods traded among the Parties.

#### Article 3 Definitions

For the purposes of this Chapter:

- (a) **customs law** means such laws and regulations administered and enforced by the customs authority of each Party concerning the importation, exportation, and transit/transshipment

of goods, as they relate to customs duties, charges, and other taxes, or to prohibitions, restrictions, and other similar controls with respect to the movement of controlled items across the boundary of the customs territory of each Party; and

- (b) **customs procedures** means the treatment applied by the customs administration of a Party to goods, which are subject to that Party's customs law.

#### **Article 4**

### **Customs Procedures and Facilitation**

1. Each Party shall ensure that its customs procedures and practices are predictable, consistent, transparent and facilitate trade, including through the expeditious clearance of goods.
2. Customs procedures of each Party shall, where possible and to the extent permitted by its customs law, conform with the standards and recommended practices of the World Customs Organization.
3. The customs administration of each Party shall review its customs procedures with a view to their simplification to facilitate trade.

#### **Article 5**

### **Customs Co-operation**

1. To the extent permitted by its domestic law, the customs administration of each Party may, as deemed appropriate, assist the customs administration of each other Party, in relation to:
  - (a) the implementation and operation of this Chapter;

- (b) developing and implementing customs best practice and risk management techniques;
- (c) providing, where possible, prior notice of changes to laws, regulations, and relevant procedures and guidelines that would affect the operation of this Agreement;
- (d) simplifying and harmonising customs procedures;
- (e) advancing technical skills and the use of technology; and
- (f) application of the Agreement on Customs Valuation.

2. Subject to available resources, the customs administrations of the Parties may, as deemed appropriate, explore and undertake co-operation projects, including:

- (a) capacity building programmes to enhance the capability of customs personnel of ASEAN Member States; and
- (b) technical assistance programmes to facilitate the Parties' development and implementation of Single Windows.

## **Article 6 Use of Automated Systems**

1. The customs administration of each Party, where applicable, shall endeavour to have its own system that supports electronic customs transactions.

2. In implementing initiatives, the customs administration of each Party shall take into account the relevant standards and best practices recommended by the World Customs

Organization, taking into consideration the available infrastructure and capabilities of each Party.

## **Article 7 Valuation**

The Parties shall determine the customs value of goods traded among them in accordance with the provisions of the Agreement on Customs Valuation.<sup>1</sup>

## **Article 8 Advance Rulings**

1. Each Party, through its customs administration or other relevant authorities, to the extent permitted by its domestic laws, regulations and administrative determinations, on the application of a person described in Paragraph 2(a), shall provide in writing advance rulings in respect of the tariff classification, questions arising from the application of the principles of the Agreement on Customs Valuation and/or origin of goods.

2. Where available, each Party shall adopt or maintain procedures for advance rulings, which shall:

- (a) provide that an importer in its territory or an exporter or producer in the territory of another Party may apply for an advance ruling before the importation of the goods in question;
- (b) require that an applicant for an advance ruling provide a detailed description of the goods and all relevant information needed to process an application for an advance ruling;

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<sup>1</sup> In the case of Cambodia, the Agreement on Customs Valuation, as implemented in accordance with the provisions of the Protocol on the Accession of the Kingdom of Cambodia to the WTO shall apply *mutatis mutandis*.

- (c) provide that its customs administration may, at any time during the course of an evaluation of an application for an advance ruling, request that the applicant provide additional information within a specified period;
- (d) provide that any advance 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 an advance ruling be issued to the applicant expeditiously, within the period specified in each Party's domestic laws, regulations or administrative determinations.

3. A Party may reject requests for an advance ruling where the additional information requested by it in accordance with Paragraph 2(c) is not provided within the specified period.

4. Subject to Paragraphs 1 and 5 and where available, each Party shall apply an advance ruling to all importations of goods described in that ruling imported into its territory for three years from the date of that ruling, or such other period as specified in that Party's domestic laws, regulations or administrative determinations.

5. A Party may modify or revoke an advance ruling upon a determination that the ruling was based on an error of fact or law (including human error), the information provided is false or inaccurate, if there is a change in domestic law consistent with this Agreement, or there is a change in a material fact or circumstance on which the ruling is based.

6. Where an importer claims that the treatment accorded to an imported good should be governed by an advance ruling, the customs administration may evaluate whether the facts and circumstances of the importation are consistent

with the facts and circumstances upon which an advance ruling was based.

## **Article 9 Risk Management**

1. The Parties shall administer customs procedures so as to facilitate the clearance of low-risk goods and focus on high-risk goods. To enhance the flow of goods across their borders the customs administration of each Party shall regularly review these procedures.

2. Where a customs administration of a Party deems that the inspection of goods is not necessary to authorise clearance of the goods from customs control, that Party shall endeavour to provide a single point for the documentary or electronic processing of those goods.

## **Article 10 Confidentiality**

1. Nothing in this Chapter shall be construed to require any Party to furnish or allow access to confidential information pursuant to this Chapter, the disclosure of which it considers would:

- (a) be contrary to the public interest as determined by its legislation;
- (b) be contrary to any of its legislation including, but not limited to, legislation protecting personal privacy or the financial affairs and accounts of individual customers of financial institutions;
- (c) impede law enforcement; or
- (d) prejudice legitimate commercial interests, which may include competitive position, of particular enterprises, public or private.

2. Where a Party provides information to another Party in accordance with this Chapter and designates the information as confidential, the Party receiving the information shall maintain the confidentiality of the information, use it only for the purposes specified by the Party providing the information, and not disclose it without the specific written permission of the Party providing the information.

### **Article 11 Enquiry Points**

1. Each Party shall designate one or more enquiry points to address enquiries from interested persons concerning customs matters, and shall make available on the internet and/or in print form, information concerning procedures for making such enquiries.

2. Each Party shall publish on the internet and/or in print form all statutory and regulatory provisions and any customs administrative procedures applied or enforced by its customs administration, not including law enforcement procedures and internal operational guidelines.

### **Article 12 Consultations**

The customs administrations of the Parties will encourage consultation with each other regarding significant customs issues that affect goods traded among the Parties.

### **Article 13 Review and Appeal**

1. Each Party shall ensure that the importers in its territory have access to administrative review within the customs administration that issued the decision subject to review or, where applicable, the higher authority supervising the administration and/or judicial review of the determination

taken at the final level of administrative review, in accordance with the Party's domestic law.

2. The decision on appeal shall be given to the appellant and the reasons for such decision shall be provided in writing.

3. The level of administrative review may include any authority supervising the customs administration of a Party.