

CHAPTER 4

CUSTOMS PROCEDURES AND TRADE FACILITATION

Article 1

Definitions

For the purposes of this Chapter:

- (a) **Customs Administration** means:
 - (i) in respect of ASEAN, the customs administration of each ASEAN Member State or competent authorities that are responsible under the internal law of the ASEAN Member State for the administration of customs law; and
 - (ii) in respect of Hong Kong, China, the Customs and Excise Department of Hong Kong, China;
- (b) **customs law** means any internal law administered, applied or enforced by the Customs Administration of a Party; and
- (c) **customs procedures** means the treatment applied by the Customs Administration of a Party to a good that is subject to customs law.

Article 2

Objectives

The objectives of this Chapter are to:

- (a) ensure predictability, consistency and transparency in the application of the customs laws of the Parties;
- (b) promote efficient and economical administration of customs procedures, and the expeditious clearance of goods;
- (c) simplify and harmonise customs procedures to the extent possible;
- (d) promote co-operation among the Customs Administrations of the Parties; and
- (e) facilitate trade among the Parties.

Article 3

Scope

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

Article 4

Customs Procedures and Facilitation

1. Each Party shall ensure that its customs procedures and practices are predictable, consistent and transparent, and facilitate trade including through the expeditious clearance of goods.

2. Customs procedures of the Parties shall, where possible and to the extent permitted by their respective customs laws, conform to standards and recommended practices of the World Customs Organization and other international organisations relevant to customs.

3. The Customs Administration of each Party shall review its customs procedures to facilitate trade.

4. Customs control shall be limited to such control which is necessary to ensure compliance with the customs laws of the respective Parties.

Article 5

Pre-arrival Processing

The Customs Administration of each Party shall endeavour to adopt or maintain procedures allowing for the submission of import documentation and other required information, in electronic format as appropriate, in order to begin processing prior to the arrival of a good with a view to expediting the release of the good upon arrival.

Article 6

Risk Management

1. Each Party shall use risk management to determine control measures with a view to facilitating legitimate trade, and expediting customs clearance and release of goods.

2. Each Party shall administer customs procedures so as to expedite the clearance of low-risk goods and focus on high-risk goods.

Article 7

Customs Valuation

Each Party shall determine the customs value of goods traded with other Parties in accordance with Article VII of GATT 1994 and the Customs Valuation Agreement.

Article 8

Classification of Goods

Each Party shall apply the *International Convention on the Harmonized Commodity Description and Coding System* signed at Brussels on 14 June 1983, as amended, to goods traded with other Parties.

Article 9

Use of Information Technology System

1. The Customs Administration of each Party, where applicable, shall apply information technology in customs operations based on internationally accepted standards for expeditious customs clearance and release of goods.

2. Each Party shall endeavour to establish and operate its single window system to enable traders to submit documentation or data requirements for importation, exportation or transit of goods through a single entry point to its relevant authorities or agencies.

Article 10

Authorized Economic Operators

1. The Customs Administration of each Party shall endeavour to establish a programme of Authorized Economic Operators (AEOs) on the basis of the *SAFE Framework of Standards to Secure and Facilitate Global Trade of the World Customs Organization* (the "SAFE Framework") to promote informed compliance and facilitate trade while ensuring effective customs control.
2. The Customs Administrations of the Parties shall endeavour to work towards mutual recognition of AEOs and develop their programmes on the basis of international standards under the SAFE Framework.

Article 11

Post Clearance Audit

The Customs Administration of each Party shall establish and operate post clearance audits to ensure compliance with customs and other related law for expeditious customs clearance.

Article 12

Advance Rulings

1. Each Party, through its Customs Administration or other relevant authorities, shall, subject to its internal law and administrative determinations, provide in writing advance rulings to an applicant described in subparagraph 2 (a), in respect of the tariff classification, appropriate method or criteria and the

application thereof to be used for determining the customs valuation, and origin of goods.

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

- (a) provide that an exporter, importer or any person with a justifiable cause or a representative thereof may apply for an advance ruling before the importation of a good in question;
- (b) require that an applicant for an advance ruling provides a detailed description of the good and all relevant information needed to process an application for an advance ruling;
- (c) provide that its Customs Administration may, at any time during the course of evaluation of an application for an advance ruling, request the applicant to 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 on receipt of all necessary information, within the period specified in each Party's respective internal law or administrative determinations.

3. A Party may reject an application for an advance ruling where the additional information requested in accordance with subparagraph 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 Area for three years from the date of that ruling, or such other period as specified in that Party's internal law 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, there is a change in its internal law in a manner consistent with this Agreement, or there is a change in a material fact or circumstances on which the ruling was based.

6. Where an importer claims that the treatment accorded to an imported good should be governed by an advance ruling, the Party 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 13

Temporary Admission

1. Each Party shall facilitate temporary admission of a good in accordance with its internal law and the relevant international standards applied by the Party.

2. **Temporary admission** in this Article means customs procedures for certain goods which are brought into a Party for a specific purpose and intended for re-exportation within a specified period without having undergone any change except normal depreciation due to the use made of them. Such customs procedures may include the goods being

conditionally relieved totally or partially from payment of import duties and taxes.

Article 14

Express Consignments

1. The Customs Administration of each Party shall endeavour to put in place adequate measures and mechanisms to facilitate customs clearance of express consignments, including pre-arrival lodging and processing of a goods declaration.

2. **Goods declaration** in this Article means a statement made in the manner prescribed by the Customs Administration of a Party, by which the persons concerned indicate the customs procedure to be applied to the goods and furnish the particulars which the Customs Administration requires for the application of the customs procedure.

Article 15

Customs Co-operation

To the extent permitted by its internal law, the Customs Administration of each Party may, as it deems appropriate, assist the Customs Administration of another Party on:

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

Article 16

Publication and Enquiry Points

1. The Customs Administration of each Party shall publish on the internet or in print form the customs law and customs administrative procedures that it applies or enforces, including any modifications thereof, except law enforcement procedures and internal operational guidelines.
2. The Customs Administration of each Party shall designate one or more enquiry points to deal with enquiries from interested persons concerning customs matters, and shall make available on the internet or in print form information concerning the procedures for making such enquiries.

Article 17

Consultations

1. Each Party shall encourage its Customs Administration to consult with the Customs Administrations of the other Parties regarding issues related to trade in goods arising from the operation or implementation of this Chapter.
2. The Customs Administration of each Party shall designate one or more contact points for the purposes of this Chapter. Each Party shall provide information on the contact points to the other Parties and notify any amendment to such information to the other Parties as soon as practicable.
3. The consultations referred to in paragraph 1 shall be conducted through the contact points of the

Customs Administrations of the relevant Parties, within a timeframe to be mutually determined.

4. Any action taken pursuant to paragraph 1 shall be without prejudice to the rights and obligations of the Parties under Chapter 13 (Consultations and Dispute Settlement) or under the WTO Dispute Settlement Understanding.

Article 18

Review and Appeal

1. Each Party shall, in accordance with its internal law, provide that the importer, exporter or any other person affected by its administrative rulings, determinations or decisions have access to:

- (a) a level of administrative appeal to or review by the authority higher than or independent of the official or office responsible for the rulings, determinations or decisions. The level of administrative appeal or review may include any authority supervising the Customs Administration, subject to the internal law of the Party; and/or
- (b) judicial review or appeal of the administrative rulings, determinations or decisions subject to its internal law.

2. The decision on review or appeal shall be given to the applicant or appellant and, subject to the Party's internal law, the reasons for such decision shall be provided in writing.