

CHAPTER SIX

TRADE FACILITATION

Article 6.1: Objectives and Principles

With the objectives of facilitating trade under this Agreement and of cooperating in pursuing trade facilitation initiatives on multilateral and hemispheric bases, each Party shall administer its import and export procedures and measures for goods traded under this Agreement, to the extent possible, on the basis that:

- (a) procedures be efficient so as to reduce costs for importers and exporters and simplified where appropriate in order to achieve such efficiency;
- (b) procedures be based on international trade instruments or international standards agreed upon by the Parties;
- (c) entry procedures be transparent so as to ensure predictability for importers and exporters;
- (d) measures to facilitate trade also support mechanisms for the effective enforcement of and compliance with national requirements;
- (e) the personnel and procedures involved in these processes comply with international standards of integrity;
- (f) the development of significant modifications to procedures of a Party include, in advance of implementation, consultations with the representatives of the trading community of that Party;

- (g) procedures be based on risk assessment principles to focus compliance efforts on transactions that merit attention, thereby promoting both the effective use of resources and compliance with the obligations of importers and exporters; and
- (h) the Parties encourage cooperation, technical assistance, and the exchange of information, including information on best practices, for the purpose of promoting both the application of and compliance with the trade facilitation measures in this Agreement.

Article 6.2: Specific Obligations

1. The Parties affirm their rights and obligations under Article VIII and Article X of the GATT 1994.
2. A Party shall release a good promptly, particularly a good that is unrestricted or uncontrolled. Subject to paragraph 3, each Party shall provide the option of releasing a good:
 - (a) at the time of the good's entry, based on the required documentation that is submitted before or at the time of arrival of the good. This does not prevent a Party, through its customs authorities, from requiring the submission of more extensive documentation through post-entry accounting and verifications, as appropriate; or
 - (b) at the time of arrival of the good, based on the submission of all the information necessary to obtain a final accounting of the good.

3. The Parties recognize that, for certain goods or under certain circumstances, such as goods subject to quota or to health-related or public safety requirements, a Party may require, before releasing the good, the submission of more extensive information, before or at the time of arrival of the good, to allow the competent authorities to examine the good for release.

4. Each Party shall facilitate and simplify the process and procedures for the release of low-risk goods and improve controls on the release of high-risk goods. For these purposes, each Party shall base its examination, release, and post-entry verification procedures on risk assessment principles rather than on examinations of every shipment of goods entering its territory in a comprehensive manner for compliance with all import requirements. This paragraph does not prevent a Party from conducting quality control and compliance reviews, which may require more extensive examination.

5. Each Party shall ensure that the procedures and activities of the competent authorities that maintain requirements on the import or export of goods are coordinated to facilitate trade. To this end, each Party shall take steps to harmonize the data requirements of the competent authorities with the objective of allowing importers and exporters to present all required data only once.

6. In its procedures for the clearance of express consignments, each Party shall apply, to the extent possible, the World Customs Organization's *Guidelines for the Immediate Release of Consignments by Customs*.

7. Each Party shall introduce or maintain simplified clearance procedures for the entry of goods that:

- (a) are low in value; and
- (b) do not generate revenue that is considered significant by the Party maintaining the simplified clearance procedures.

8. The Parties shall endeavour to both achieve common processes and to simplify the information necessary for the release of goods. To this end, the Parties shall, when appropriate, both apply existing international standards and establish a means of facilitating the electronic exchange of information between customs administrations, importers, exporters, and their agents or representatives, for the purpose of encouraging rapid release procedures.

9. For the purposes of this Article, the Parties shall use formats based on international standards for the electronic exchange of information. In addition, the Parties shall take into account, to the extent possible, the World Customs Organization Recommendations “Concerning the Use of UN/EDIFACT Rules for Electronic Data Interchange” and “Concerning the Use of Codes for the Representation of Data Elements”. This paragraph does not preclude the use of additional electronic data transmission standards.

10. The Parties, through their customs administrations, shall establish formal discussion mechanisms with their trade and business communities in order to promote greater cooperation and the exchange of electronic information.

11. Upon written request, a Party shall, in accordance with Article 5.10 (Customs Procedures – Advance Rulings), issue a written ruling prior to importation pertaining to:

- (a) tariff classification;
- (b) the applicable rate of customs duty or any other tax applicable upon importation; or
- (c) whether a good is originating and is entitled to preferential tariff treatment under this Agreement.

These requests may be made by an importer, exporter, or on their behalf by a representative.

12. Each Party shall ensure that the rulings referred to in paragraph 11 are as detailed as both the nature of the request and the details provided by the person requesting the ruling permit.

13. When a Party determines that a request for a ruling referred to in paragraph 11 is incomplete, it may request additional information including, if appropriate, a sample of the good or material in question from the person requesting the ruling.

14. Rulings issued pursuant to paragraph 11 bind the customs administration of the Party that issued the ruling at the time that the goods that were the subject of the ruling are imported if the facts and circumstances that provided the basis of the ruling remain in effect.

15. A Party may, at any time, without retroactive effect, modify or revoke a ruling issued pursuant to paragraph 11 after notifying the person that requested the ruling.

16. If a ruling referred to in paragraph 11 is based on inaccurate or false information, the Party that issued the ruling may modify or revoke the ruling and, as appropriate and with prompt notification, may collect any uncollected duties, taxes, or other charges in accordance with its domestic law.

17. Each Party shall ensure that an administrative action or official decision in respect of the import or export of a good is reviewable promptly by a judicial, arbitral, or administrative tribunal or procedure that:

- (a) is independent of the authority that issued the administrative action or official decision; and
- (b) has the authority to maintain, modify, or reverse the administrative action or official decision in accordance with the domestic law of the Party.

18. Before requiring a person to seek redress at a judicial level, each Party shall provide for an administrative level of appeal or review that is independent of the official or office responsible for the administrative action or official decision that is being appealed.

19. Each Party shall promptly make available the following requirements relating to imported and exported goods: laws, regulations, judicial decisions, administrative rulings, and policies of general application. Each Party shall also make available administrative notices regarding matters such as the following: general agency requirements, entry procedures, hours of operation, and points of contact for information enquiries.

20. Each Party shall, in accordance with its domestic law, treat business information that is by its nature confidential or that is provided on a confidential basis as confidential.

Article 6.3: Cooperation

1. The Parties recognize that technical cooperation is fundamental both to facilitating compliance with the obligations set forth in this Agreement and to reaching a better degree of trade facilitation.

2. The Parties, through their customs administrations, shall develop a Technical Cooperation Program on customs-related matters on the basis of mutually decided terms relating to issues such as the scope, timing, and cost of cooperative measures.

Customs-related matters include:

- (a) training;
- (b) risk assessment;
- (c) prevention and detection of contraband and illegal activities, in collaboration with other authorities;
- (d) implementation of the Customs Valuation Agreement;
- (e) audit and verification frameworks;
- (f) customs laboratories; and
- (g) electronic exchange of information.

3. The Parties shall cooperate in the development of effective mechanisms for communicating with the trade and business communities.

Article 6.4: Future Work Program

1. With the objective of developing further steps to facilitate trade under this Agreement, the Parties hereby establish the following work program:

- (a) to develop the Technical Cooperation Program referred to in Article 6.3(2) for the purpose of facilitating compliance with the obligations set forth in this Agreement; and
- (b) as appropriate, to identify and submit for the Commission's consideration new measures aimed at both facilitating trade between the Parties and advancing the objectives and principles set out in Article 6.1, including:
 - (i) common processes,
 - (ii) general measures to facilitate trade,
 - (iii) official controls,
 - (iv) transportation,
 - (v) the promotion and use of standards,
 - (vi) the use of automated systems and Electronic Data Interchange (EDI),
 - (vii) the availability of information,
 - (viii) customs and other official procedures concerning the means of transportation and transportation equipment including containers,
 - (ix) official requirements for imported goods,

- (x) simplification of the information necessary for the release of goods,
- (xi) customs clearance of exports,
- (xii) transshipment of goods,
- (xiii) goods in international transit,
- (xiv) commercial trade practices, and
- (xv) payment procedures.

2. The Parties may periodically review the work program referred to in paragraph 1 to decide on new cooperation initiatives that are needed to promote the application of the trade facilitation objectives and principles listed in Article 6.1, or any new measures that might be decided on by the Parties.

3. The Parties shall review relevant international initiatives on trade facilitation, including the *Compendium of Trade Facilitation Recommendations* developed by the United Nations Conference on Trade and Development and the United Nations Economic Commission for Europe, to identify areas where further joint action would facilitate trade between the Parties and promote shared multilateral objectives.