

CHAPTER 6

Trade Facilitation

Article 6-1: Objectives and Principles

1. With the objectives of facilitating trade under this Agreement and cooperating to pursue trade facilitation initiatives on a multilateral basis, each Party shall administer its import and export processes for goods traded under this Agreement on the basis that, to the extent possible:

- (a) procedures be efficient to reduce costs for importers and exporters and simplified where appropriate to achieve such efficiencies;
- (b) procedures be based on any international trade instruments or standards to which the Parties have agreed;
- (c) entry procedures be transparent to ensure predictability for importers and exporters;
- (d) the personnel and procedures involved in those processes reflect standards of integrity;
- (e) 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; and
- (f) procedures be based on risk management principles to focus compliance efforts on transactions that merit attention.

2. The Parties shall, to the extent possible, cooperate, assist each other technically and exchange information, including information on best practices, for the purpose of promoting the application of and compliance with the trade facilitation measures agreed upon under this Agreement.

Article 6-2: Rights and Obligations

1. The Parties affirm their rights and obligations under Article VIII and Article X of the GATT 1994.
2. Each Party shall release unrestricted, uncontrolled and non-regulated goods promptly. Subject to paragraph 3, each Party shall provide the option of either:
 - (a) releasing such a good based on the submission, before or at the time of arrival of the good, of all the information necessary to obtain a final accounting of the good; or
 - (b) releasing such a good at the time of its presentation to the competent authority of the importing Party based on the submission of only the information required before the good arrives or at the time of arrival. This shall not prevent a competent authority from requiring the submission of more extensive information through post-entry accounting and verifications, as appropriate.
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, releasing the goods may require the submission of more extensive information, before or at the time of arrival of the goods, to allow the authorities to examine the goods for release.
4. Each Party shall facilitate and simplify its processes and procedures for the release of low-risk goods, and shall improve controls on the release of high-risk goods. For these purposes, each Party shall base its examination and release procedures and its post-entry verification procedures on risk management principles, rather than examining each shipment offered for entry in a comprehensive manner for compliance with all import requirements. This shall not prevent a Party from conducting quality control and compliance reviews, which may require more extensive examinations.

5. Each Party shall ensure that the procedures and activities of its agencies that have requirements on the import or export of goods, and are maintained either by themselves or on their behalf by its competent authority, are coordinated to facilitate trade. To this end, each Party shall take steps to harmonize the data requirements of such agencies with the objective of allowing importers and exporters to present all required data to only one border agency.

6. In its procedures for the clearance of express consignments, each Party shall apply, to the extent possible, the World Customs Organization *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 are low in value and for which the revenue associated with such imports is not considered significant by the Party maintaining such expedited procedures.

8. The Parties shall endeavour to achieve common processes and simplification of the information necessary for the release of goods, applying, when appropriate, existing international standards. With this objective, the Parties shall also endeavour to establish a means of providing for the electronic exchange of information between competent authorities and the importers, exporters, their agents or their representatives, for the purpose of encouraging rapid release procedures. For the purpose of this Article, each Party shall use formats based on international standards for the electronic exchange of information, and shall also 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 shall not preclude the use of additional electronic data transmission standards.

9. Each Party shall, to the extent possible, establish means of consultation with its trade and business communities to promote greater cooperation and the exchange of electronic information.

10. Subject to Chapter 5 (Customs Procedures), a Party shall issue a written ruling prior to an importation in response to a written request by an importer in its territory, exporter or producer in the territory of the other Party, or their respective representatives. These rulings shall be issued for tariff classification or rate of customs duty, except any form of surtax or surcharge, applicable upon importation.

11. Each Party shall adopt or maintain procedures for the issuance of rulings referred to in paragraph 10. In accordance with these procedures, a Party may, at any time, modify or revoke a ruling:

- (a) after notification to the person that requested the ruling and without retroactive application; or
- (b) without notification and with retroactive application in circumstances where inaccurate or false information was provided.

12. The rulings referred to in paragraph 10 shall be as detailed as the nature of the request and the details provided by the person requesting the ruling permit. When a Party determines that a request for a ruling is incomplete, it may request additional information, including, where appropriate, a sample of the goods or materials in question from the person requesting the ruling. A Party shall issue a ruling within 120 days after it has received all the information it considers necessary to issue the ruling. A ruling shall be binding upon the Party that issued the ruling at the time the goods are actually imported provided that the facts and circumstances that were the basis for the issuance of the ruling remain in effect.

13. Each Party shall ensure that any administrative action or official decision taken in respect of the import or export of goods is reviewable promptly by judicial, arbitral or administrative tribunals or through administrative procedures. Such tribunal or official acting pursuant to such administrative procedures shall be independent of the official or office issuing the decision and shall have the competence to maintain, modify or reverse the determination, in accordance with the Party's domestic law. Each Party shall provide for an administrative level of appeal or review, independent of the official or, where applicable, the office responsible for the original action or decision, before requiring a person to seek redress at a more formal or judicial level.

14. Each Party shall publish or otherwise make available, including through electronic means, all their legislation, regulations, judicial decisions and administrative rulings or policies of general application relating to its requirements for imported or exported goods. Each Party shall also make available notices of an administrative nature, such as general agency requirements and entry procedures, hours of operation and points of contacts for information enquiries.

15. Each Party shall, in accordance with its domestic law, treat as strictly confidential all business information obtained pursuant to this Chapter that is by its nature confidential or that is provided on a confidential basis.

Article 6-3: Cooperation

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

2. The Parties agree to develop a technical cooperation programme under such mutually agreed terms as the scope, timing and cost of cooperative measures in customs-related areas such as:

- (a) training;
- (b) risk assessment;
- (c) prevention and detection of contraband and illegal activities;
- (d) implementation of the Customs Valuation Agreement;
- (e) audit and verification frameworks;
- (f) customs laboratories;
- (g) implementation of the World Customs Organization Framework of Standards to Secure and Facilitate Global Trade at Pillar 1, Customs-to-Customs level; and
- (h) implementation of this chapter.

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

Article 6-4: Future Work Programme

1. With the objective of developing further steps to facilitate trade under this Agreement, the Parties establish the following work programme:
 - (a) to develop the Cooperation Programme referred to in Article 6-3 for the purpose of facilitating compliance with the obligations set forth in this Agreement; and
 - (b) as appropriate, to identify and submit for the consideration of the Free Trade Commission new measures aimed at facilitating trade between the Parties, taking as a basis the objectives and principles set forth 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,
 - (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 programme referred to in this Article for the purpose of agreeing upon new cooperation actions that might be needed to promote application of the trade facilitation obligations and principles, including new measures that might be agreed upon 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.