

CHAPTER 5: CUSTOMS

SECTION A: CUSTOMS PROCEDURES

ARTICLE 5.1: PUBLICATION

1. Each Party shall publish, including on the Internet, its customs laws, regulations, and general administrative procedures.
2. 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 or in print form information concerning procedures for making such enquires.

ARTICLE 5.2: RELEASE OF GOODS

Each Party shall adopt or maintain procedures allowing, to the greatest extent possible, goods to be released:

- (a) within 48 hours of arrival; and
- (b) at the point of arrival, without temporary transfer to warehouses or other locations.

ARTICLE 5.3: AUTOMATION

1. The customs administrations shall each endeavour to provide an electronic environment that supports business transactions between it and its trading communities.
2. In implementing initiatives that provide for paperless trading, the customs administrations of the Parties should take into consideration the methods developed in APEC and the World Customs Organization.

ARTICLE 5.4: RISK MANAGEMENT

1. The Parties shall adopt risk management approach to customs activities based on the risks of goods it has identified, in order to facilitate the swift clearance of low risk consignments and focusing its inspection activities on high-risk goods.
2. The Parties shall exchange information on risk management techniques in the performance of their customs procedures.

ARTICLE 5.5: COOPERATION

1. To the extent permitted by their domestic law, the customs administrations of the Parties may, as they deem fit, assist each other, in relation to originating goods, by providing information on:

- (a) the implementation and operation of this Chapter;
- (b) investigation and prevention of prima facie customs offences;
- (c) developing and implementing customs best practice and risk management techniques;
- (d) simplifying and expediting customs procedures; and
- (e) advancing technical skills and the use of technology.

2. Where a Party providing information to another Party in accordance with this Chapter designates the information as confidential, the other Party shall maintain the confidentiality and use that information for the purposes of the request without disclosing the source of the information.

ARTICLE 5.6: 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 that 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 those protecting personal privacy or the financial affairs and accounts of individual customers of financial institutions;
- (c) impede law enforcement; or
- (d) prejudice the competitive position of the person or Party providing the information.

2. Confidentiality must be maintained on all commercial information obtained in the course of a verification process on the determination of origin.

3. Any confidential information obtained in the course of a verification process on the determination of origin must only be used by the authorities responsible for the administration and application of the determination of origin.

ARTICLE 5.7: EXPRESS CONSIGNMENTS⁵⁻¹

Each Party shall ensure efficient clearance of all shipments, while maintaining appropriate control and customs selection. In the event that a Party's existing system does not ensure efficient clearance, it should adopt procedures to expedite express consignments to:

- (a) provide for pre-arrival processing of information related to express consignments;
- (b) permit the submission of a single document covering all goods contained in a shipment transported by the express shipment company through electronic means if possible; and
- (c) minimize, to the extent possible, the documentation required for the release of express consignments.

ARTICLE 5.8 : REVIEW AND APPEAL

1. Each Party shall ensure that the importers in its territory have access to:

- (a) administrative review independent of the official or office that issued the decision or administrative act subject to review⁵⁻²; and
- (b) judicial review of the decision or administrative act taken at the final level of administrative review, in accordance with the Party's domestic law.

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

ARTICLE 5.9: PENALTIES

Each Party shall adopt or maintain measures that provide for the imposition of civil, criminal or administrative penalties consistent with

⁵⁻¹ Article 5.7 (Express Consignments) shall enter into force two (2) years after the date of entry into force of this Agreement.

⁵⁻² For Singapore, this level of administrative review may include the Ministry supervising the customs authority.

the provisions of this Chapter and Chapter 4 (Rules of Origin) on origin determination and claiming of preferential treatment, whether solely or in combination, for violations of its customs laws.

ARTICLE 5.10: ADVANCE RULINGS⁵⁻³

1. Each Party, through its customs administration or the relevant governmental authority, on the application of a person described in subparagraph 2(a), shall provide in writing advance rulings in respect of the tariff classification and origin of goods and whether a good qualifies for entry free of customs duty.

2. 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 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 issue an advance ruling;
- (c) provide that its customs administration or the relevant governmental authority may, within a specified period, request for the additional information required in order to have all the relevant information needed;
- (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, or in any case within one hundred and twenty (120) days of the receipt of all necessary information.

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

4. Each Party shall provide that advance rulings shall be in force from their date of issuance, or another date specified in the ruling, provided that the facts or circumstances on which the ruling is based remain unchanged.

⁵⁻³ Article 5.10 (Advance Rulings) shall enter into force three (3) years after the date of entry into force of this Agreement.

5. A Party may modify or revoke an advance ruling upon a decision or administrative act that the ruling was based on an error of fact or law, 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 circumstances on which the ruling is based.

6. Where an importer claims that the treatment accorded to an imported good should be governed by an advanced ruling, the customs administration or the relevant governmental authority may evaluate whether the facts and circumstances of the importation are consistent with the facts and circumstances upon which an advanced ruling was based.

7. If a requester provides false information or omits relevant facts or circumstances relating to the advance ruling, or does not act in accordance with the ruling's terms and conditions, the importing Party may apply the appropriate measures as provided in Article 5.9 (Penalties).

ARTICLE 5.11: RESOLUTION OF DISPUTES ON CLASSIFICATION OF GOODS

For instances when the Parties cannot agree on the correct classification of a good, the Parties shall hold the appropriate consultations with the World Customs Organization (WCO) to determine the correct classification of the good. The advice given by the WCO on the classification of the good has to be accepted by the Parties.

ARTICLE 5.12: WORKING GROUP ON CUSTOMS PROCEDURES

The Parties hereby may establish a working group on customs administration and trade facilitation, which shall work under and report to the Committee. The initial focus of this working group should be related to the implementation of Chapter 5 (Customs), including other customs-related initiatives which may be agreed between the Parties and any other priority the Committee designates.

SECTION B : CUSTOMS PROCEDURES RELATING TO ORIGIN

ARTICLE 5.13 : DEFINITIONS

For purposes of this Section:

1. **competent government authority** means the government authority in each Party that is responsible for the verification of Certification of Origin, which:

- (a) in the case of Peru is the National Direction of Integration and International Trade Negotiations, of the Ministry of Foreign Trade and Tourism, or its successor; and
 - (b) in the case of Singapore is the Singapore Customs, or its successor;
2. **day** means calendar days, including weekends and holidays, but for the calculation of time periods, where the last day falls on a non-working day, the last day will be extended to the next working day.

ARTICLE 5.14 : CLAIMS FOR PREFERENTIAL TREATMENT

1. For the purpose of obtaining preferential tariff treatment in the other Party, a proof of origin in the form of a certification of origin together with the supplier's invoices and other supporting documents shall be furnished by the importer, claiming the preferential tariff treatment at the time of importation of the originating good(s).
2. The Certification of Origin shall be duly completed and signed by the exporter or producer of the goods in his territory. The Certification of Origin shall include the data elements specified in Annex 5A (Data Elements for the Certification of Origin).
3. If the exporter is not the producer of the goods referred to on the Certification of Origin, the exporter may complete and sign the Certification of Origin only on the basis of:
- (a) his knowledge of whether the good qualifies as an originating good and his reasonable reliance on the producer's written representation that the good qualifies as an originating good; or
 - (b) a completed and signed certification for the good voluntarily provided to the exporter by the producer.
4. Paragraph 3 shall not be construed so as to require a producer to provide a Certification of Origin to an exporter.
5. The Parties shall, in accordance with their domestic legislation, provide that where an importer claims at the time of importation a good can meet the terms of this Chapter and would thereby have qualified for preferential tariff treatment but was unable to provide a declaration or a Certification of Origin or other such evidence to substantiate the tariff preference claimed for the good, the importer may, in accordance with domestic legislation or within one (1) year from date of importation, apply for a refund of any excess customs duties paid as a result of the goods not having been accorded preferential tariff treatment, on production of:

- (a) a declaration or Certification of Origin that the good qualifies as an originating good; and
- (b) such other evidence as the customs administration may require to satisfactorily evidence the tariff preference claimed.

6. The importing Party shall accept a Certification of Origin, as the case may be, for situations where the sales invoice is issued either by a company located in the exporting Party or in a non-Party country, provided that the good(s) meet all the applicable requirements in this Chapter. Where the invoice is issued by a company in a non-Party country, this should be stated in the Certification of Origin issued and the invoice should be produced and submitted to the customs at the importing country.

7. The Certification of Origin shall be effective for twelve (12) months from the date of issue. Each Certification shall apply to a single shipment of goods into the territory of a Party.

8. When goods are temporarily stored under control of the customs authority of the importing Party, the validation period of a Certification of Origin shall be suspended for the duration of such storage period.

9. Slight discrepancies between the wording and details stated on the Certification of Origin produced to the customs administrations of the Importing Party in clearance of goods shall not, of itself, cause any claim for preferential tariff treatment to be denied.

10. If the Certification of Origin is fraudulent, the importing Party may apply the appropriate measures as provided in Article 5.9 (Penalties).

11. Any Certification of Origin issued before the entry into force of this Agreement but presented for claiming preferential tariff treatment on or after the date of entry into force of this Agreement, is to be accepted as evidence as to the origin of the good(s) specified thereon.

ARTICLE 5.15 : WAIVER OF CERTIFICATION OF ORIGIN

Each Party shall provide that a Certification of Origin shall not be required for the importation of any good whose custom value does not exceed US \$1,500 or its equivalent amount in the Party's currency; or such higher amount as may be established by a Party which is importing, provided that the importation does not form part of a series of importations that may reasonably be considered to have been undertaken or arranged for the purpose of avoiding the certification requirements.

ARTICLE 5.16 : RECORD KEEPING REQUIREMENT

1. Each Party shall provide that an exporter and a producer in its territory that completes and signs a Certification of Origin shall maintain in its territory, for four (4) years after the date on which the Certification of Origin was issued or signed, or for such longer period as the Party may specify, all records relating to the origin of a good for which preferential tariff treatment was claimed in the territory of the other Party, including records associated with:

- (a) the purchase of, cost of, value of, shipping of, and payment for, the good that is exported from its territory;
- (b) the sourcing of, the purchase of, cost of, value of, and payment for, all materials, including indirect materials, used in the production of the good that is exported from its territory; and
- (c) the production of the good in the form in which the good is exported from its territory.

2. Each Party shall provide that an importer claiming preferential tariff treatment for a good imported into the Party's territory shall maintain in that territory, for four (4) years after the date of importation of the good or for such longer period as the Party may specify, such documentation, including a copy of the Certification of Origin, as the Party may require relating to the importation of the good.

3. The records to be maintained in accordance to paragraphs 1 and 2 may include electronic records and shall be maintained in accordance with the domestic laws and practices of each Party.

ARTICLE 5.17 : VERIFICATION OF ORIGIN

1. For purposes of determining whether a good imported into its territory from the territory of the other Party qualifies as an originating good, the importing Party may conduct verification by means of:

- (a) requests for information from the importer;
- (b) written questionnaires or request for information to the exporter or producer of the good(s) in the territory of the other Party through the competent government authority of the exporting Party;
- (c) request for assistance from the competent government authority of the exporting Party as provided for in paragraph 3 below;

- (d) verification visits to the premises of an exporter or a producer in the territory of the other Party, to observe the facilities and the production processes of the good and to review the records referring to origin including accounting files.

2. For the purpose of paragraph 1(a) and 1(b), the importer, exporter or producer:

- (a) shall answer and return the request within a period of thirty (30) days from the date on which it was received.
- (b) may have one opportunity, during the period established in subparagraph (a), to make a written request to competent government authority of the importing Party for an extension of the answering period, for a period not exceeding thirty (30) days.

In the case where the importer, exporter, or producer does not return the written request for the information made by the competent government authority of the importing Party within the given period or its extension, the importing Party may deny the preferential tariff treatment.

3. For the purpose of paragraph 1(c), the competent government authority of the importing Party:

- (a) may request the competent government authority of the exporting Party to assist it in verifying:
 - (i) the authenticity of a certification of origin; and/or
 - (ii) the accuracy of any information contained in the certification of origin.
- (b) shall provide the competent government authority of the other Party with:
 - (i) the reasons why such assistance is sought;
 - (ii) the certification of origin, or a copy thereof; and
 - (iii) any information and documents as may be necessary for the purpose of providing such assistance.

4. To the extent allowed by its domestic law and practices, the competent government authority of the exporting Party shall fully cooperate in any action to verify eligibility. In the absence of such cooperation, the importing Party shall determine the eligibility of the origin with the best information available at that moment.

5. For the purpose of paragraph 1(d), the competent government authority of the importing Party shall:

- (a) deliver, prior to conducting a verification visit, a written notification of its intention to conduct the visit to the exporter or producer and to the competent government authority of the exporter Party; and
- (b) obtain the written consent of the exporter or producer.

6. Pursuant to paragraph 5, the exporter or producer may within fifteen (15) days of receiving the notification, request to the competent government authority of the importing Party for a postponement of the proposed verification visit, for a period not exceeding sixty (60) days. This extension shall be notified to the competent authorities of the importing and exporting Parties.

7. A Party shall not deny preferential tariff treatment to a good solely because a verification visit was postponed pursuant to paragraph 6.

8. In the case, where an exporter or producer does not give its written consent to a proposed verification visit within thirty (30) days from the receipt of notification, the importing Party may deny preferential treatment to relevant good.

9. After concluding the actions related to paragraph 1(a), 1(b), 1(c) or 1(d), the competent government authority of the importing Party shall provide a written determination of whether the good is eligible for preferential tariff treatment based on the relevant law and findings of fact within fifteen (15) days of the determination on the outcome of the origin verification action taken. In respect of paragraph 1(a) or 1(b), the maximum time to be taken from the start of the verification to its conclusion should not exceed one hundred and twenty (120) days. In respect of paragraph 1(c) or 1(d), the maximum time to be taken from the start of the verification to its conclusion should not exceed one hundred and fifty (150) days.

10. When the customs administration has a doubt on the origin of the goods at the time of importation, the goods may be released by the customs administration of the importing Party on a security or upon payment of duties, pending the outcome of the origin verification, provided that they are not held to be subject to import prohibition or restriction and there is no suspicion of fraud. The relevant duties paid shall be refunded once the outcome of the origin verification confirmed that the good qualifies as an originating good.

11. A Party may deny preferential treatment to an importer on any subsequent import of a good when the competent authority had already determined that an identical good was not eligible for that treatment.

ARTICLE 5.18 : OBLIGATIONS RELATING TO IMPORTATIONS

- 1 Any good that meets all the applicable requirements in this Chapter and in Chapter 4 (Rules of Origin) is eligible for preferential tariff treatment.
- 2 A Party may deny preferential tariff treatment under this Agreement to imported good(s) if the importer fails to comply with any requirement of this Chapter or Chapter 4(Rules of Origin).
3. Any penalty, if applicable, for making an invalid claim for preferential tariff treatment shall be subject to the domestic law of each Party that is dealing with the offence under its jurisdiction.

ARTICLE 5.19 : OBLIGATIONS RELATING TO EXPORTATIONS

1. Each Party shall provide that an exporter or a producer in its territory shall submit a copy of the Certification of Origin to its competent government authority upon request.
2. A false Certification of Origin by an exporter or a producer in its territory, stating that a good to be exported to the territory of another Party is originating shall be subject to penalties that are sufficiently deterrent.
3. When an exporter or a producer in its territory has provided a Certification of Origin and has reason to believe that such Certification contains or is based on incorrect information, the exporter or producer shall promptly notify in writing every person to whom the exporter or producer provided the Certification of any change that could affect the accuracy or validity of the Certification. Any penalty, if applicable, for providing an incorrect Certification of Origin for preferential tariff treatment shall be subject to the domestic law of each Party that is dealing with the offence under its jurisdiction.