

## ANNEX 5

### **CUSTOMS PROCEDURES**

#### **ARTICLE 1**

##### **Purpose and Definitions**

1. The purpose of this Annex is to promote the objectives of this Protocol by simplifying customs procedures and to ensure their proper application in relation to bilateral trade between the Parties.
2. For the purposes of this Annex, “customs procedures” means the treatment applied by the customs administration of each Party to goods subject to customs control.

#### **ARTICLE 2**

##### **Scope**

This Annex shall be applied in accordance with laws, regulations and policies governing the customs procedures required for clearance of goods traded between the two Parties.

#### **ARTICLE 3**

##### **Customs Valuation**

The Parties shall determine the customs value of goods traded between them in accordance with the provisions of Article VII of the General Agreement on Tariffs and Trade (hereinafter referred to as “GATT”) 1994 and the WTO Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 (hereinafter referred to as the “WTO Customs Valuation Agreement”).

#### **ARTICLE 4**

##### **Customs Procedures and Facilitation**

1. Customs procedures of both Parties shall be consistent, where possible and to the extent permitted by their respective laws, regulations and policies, to international standards and recommended practices.
2. Each Party shall ensure that its customs procedures and practices are foreseeable, consistent, transparent and facilitate trade.

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### **ARTICLE 5 Cooperation**

1. In accordance with their respective laws, regulations and policies, the customs administrations of both Parties shall provide each other mutual assistance to prevent significant differences in customs legislation as well as to protect the economical, fiscal, social and trade interests of each country, and ensuring an appropriate and efficient customs collection by their administrations.
2. Each Party shall endeavor to notify the other Party of any significant changes to its regulations or domestic policies related to imports that may significantly affect this Protocol.
3. Both Parties shall cooperate to achieve a fluent exchange of information in order to have the information sent by the carrier or the exporter to the customs administration of the importing Party, before the departure of the transportation means carrying the goods, in accordance with its laws and regulations. Likewise, both Parties shall seek to expedite the trade operations between them.

### **ARTICLE 6 Fight Against Unlawful Activities**

1. Where a Party has reasonable suspicion of unlawful activity related to its laws and regulations governing importation, it may request the other Party in writing for information.
2. Where a Party providing information to the other Party designates the information as confidential, the other Party shall maintain the confidentiality of the information. The Party providing the information may, in accordance with its national legislation, require a written assurance by the other Party that the information will be held in confidence, will be used only for the purposes specified in the other Party's request for information, and will not be disclosed without the Party's specific permission.
3. A Party may decline to provide information requested by the other Party where the latter has failed to act in conformity with paragraph 2.
4. Nothing in this Annex shall be taken to require a Party to furnish or allow access to, or permit the disclosure of information which:
  - (a) is contrary to the public interest as determined by its laws, rules or regulations; or
  - (b) is contrary to its laws, rules or regulations that protect personal privacy or the financial affairs and accounts of individual customers of financial institutions.
  - (c) result in the decline in the efficiency of law enforcement or failure to achieve its objectives.

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### **ARTICLE 7** **Review and Appeal**

1. Each Party shall ensure administrative and judicial review for the decisions and rulings issued by the customs administration.
2. The request for the review of the decisions and rulings issued by the customs administration of each Party must be made in writing and shall have all the necessary information required to make a decision on the request.

### **ARTICLE 8** **Paperless Trading and Use of Automated Systems**

1. The customs administrations of both Parties, when implementing measures for reduced paperwork, shall take into consideration the methods agreed in Asia-Pacific Economic Cooperation (APEC) and the World Customs Organization (WCO).
2. The customs administrations of each Party shall work together in order to have customs reports in electronic media as soon as possible.
3. The introduction of information technology shall, to the greatest extent possible, be carried out in consultation with all relevant parties directly affected.

### **ARTICLE 9** **Risk Management**

1. The Parties shall administer customs procedures to facilitate the clearance of low-risk goods and focus on high-risk goods.
2. The Parties shall apply and develop further risk management techniques in the performance of their customs procedures.

### **ARTICLE 10** **Publication and Discussion**

1. Each Party shall publish through the Internet or on an interconnected telecommunications base or in printed copy the regulations and administrative procedures applicable by its customs administration.
2. Each Party shall designate one or more enquiry points to address enquiries from interested persons of the other Party concerning customs matters and

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shall make available on the Internet information related to the procedures for making such enquiries.

### **ARTICLE 11 Sanctions**

Each Party shall adopt or keep measures that allow it to impose civil, administrative and criminal sanctions in case of any violation to its customs laws and regulations, including those governing tariff classification, customs valuation, rules of origin and the requirements to guarantee a preferential tariff treatment under this Protocol.

### **Article 12 Express Consignment**

Each Party shall adopt or maintain separate and expedited customs procedures for express consignment while maintaining appropriate customs control and selection, in accordance to its laws and regulations. These procedures shall:

- (a) provide for the submission and processing of information necessary for the release of an express consignment before the express consignment arrives;
- (b) allow submission of a single manifest covering all goods contained in a shipment transported by an express consignment service, through, if possible, by electronic means;
- (c) to the extent possible, provide for clearance of certain goods with a minimum of documentation;
- (d) under normal circumstances, provide for clearance of express consignment within twelve hours after submission of all the necessary customs documents, provided the shipment has arrived.