

CHAPTER 4

CUSTOMS PROCEDURES AND TRADE FACILITATION

Article 4.1: Definitions

For the purpose of this Chapter, the following definitions shall mean:

customs laws means provisions implemented by legislations and regulations concerning the importation, exportation, transit of goods, or any other customs procedures whether relating to customs duties, taxes or any other charges collected by the Customs Authority, or to measures for prohibition, restriction, or control enforced by the Customs Authority;

customs procedure means the measures applied by the customs authority of a Party to goods and to the means of transport that are subject to its customs laws and regulations;

persons means both natural and legal person, unless the context otherwise requires;

Customs Mutual Assistance Agreement (CMAA) means the agreement that further enhances customs cooperation and exchange of information between the Parties to secure and facilitate lawful trade which entered into force on the 16th of December 2015;

Authorized Economic Operator(s) (AEO) means the program which recognizes an operator involved in the international movement of goods in whatever function that has been approved by the national Customs Authority as complying with the World Customs Organization (WCO) or equivalent supply chain security standards; and

Mutual Recognition Arrangement (MRA) means the arrangement between the Parties that mutually recognize AEO authorizations that has been properly granted by one of the Customs Authority which entered into force on the 1st of October 2018.

Article 4.2: Scope

This Chapter shall apply, in accordance with the Parties' respective international obligations and their national laws, rules and regulations, to customs procedures required for clearance of goods traded between the Parties.

Article 4.3: General Provisions

1. Parties agree that their customs laws and procedures shall be transparent, non-discriminatory, consistent and avoid unnecessary procedural obstacles to trade.
2. Customs procedures of the Parties shall conform where possible, to the standards and recommended practices of the World Customs Organization.
3. The Customs Authority of each Party shall periodically review its customs procedures with a view to their further simplification and development to facilitate bilateral trade.

Article 4.4: Publication and Availability of Information

1. Each Party shall ensure that its laws, regulations, guidelines, procedures, and administrative rulings governing customs matters are promptly published through the Internet, in the English language, to the extent possible.
2. Each Party shall designate, establish, and maintain one or more inquiry points to address inquiries from interested persons pertaining to customs matters, and shall endeavour to make available publicly through electronic means, information concerning procedures for making such inquiries.
3. Nothing in this Article or in any part of this Agreement shall require any Party to publish law enforcement procedures and internal operational guidelines including those related to conducting risk analysis and targeting methodologies.
4. Each Party shall, to the extent practicable, and in a manner consistent with its domestic laws and legal system, ensure that new or amended laws and regulations of general application related to the movement, release, and clearance of goods, including goods in transit, are published or information on them made otherwise publicly available, as early as possible before their entry into force, so that interested parties have the opportunity to become acquainted with the new or amended laws and regulations. The Parties shall endeavor to make such

information and publications available in the English language, to the extent possible.

Article 4.5: Risk Management

The Parties shall adopt a risk management approach in their customs activities, based on their identified risk of goods, in order to facilitate the clearance of low risk consignments, while focusing their inspection activities on high-risk goods.

Article 4.6: Paperless Communications

1. For the purposes of facilitating bilateral exchange of international trade data and expediting procedures for the release of goods trade facilitation, the Parties shall endeavour to provide an electronic environment that supports business transactions between their respective Customs Authority and their trading entities.
2. The Parties shall exchange views and information on realising and promoting paperless communications between their respective Customs Authority and their trading entities.
3. The respective Customs Authority of the Parties, in implementing initiatives which provide for the use of paperless communications, shall take into account the methodologies agreed at the WCO.

Article 4.7: Advance Rulings

1. In accordance with its domestic laws and regulations, the Customs Authority of the Parties upon a request shall issue in a reasonable time-bound manner, not exceeding 90 days after a request, to a person, prior to the importation of a good into their territory based on a request containing all the necessary information an advance ruling, in relation to:

- (a) tariff classification;
- (b) origin of goods;

(c) the application of valuation criteria in accordance with the application of the provisions set forth in the Customs Valuation Agreement; and

(d) such other matters as the Parties may agree.

2. The importing Party shall apply an advance ruling issued by it under paragraph 1 of this Article on the date that the ruling is issued or on another date specified in the ruling and remain in effect for a reasonable period of time and in accordance with the national procedures on advanced ruling unless the advance ruling is modified or revoked.

3. The advance ruling issued by the Party shall be binding in its territory to the person to whom the ruling is issued only.

4. A Party may decline to issue an advance ruling if the facts and circumstances forming the basis of the advance ruling are the subject of a post clearance audit or an administrative, judicial review or appeal. A Party that declines to issue an advance ruling shall promptly notify, in writing, the person requesting the ruling, setting out the relevant facts and circumstances and the basis for its decision.

5. A Party may modify or revoke an advance ruling where:

(a) It is required to conform with a judicial decision or a change in its domestic laws;

(b) Incorrect or incomplete information was provided or relevant information was withheld;

(c) The advance ruling was based on an error of fact;

(d) There is a change in the material facts or circumstances on which the ruling was based; or

(e) It is required to conform with a modification of this Chapter.

6. Each Party shall provide written notice to the applicant explaining the Party's decision to revoke or modify the advance ruling issued to the applicant.

7. Each Party shall provide that any modification or revocation of an advance ruling shall be effective on the date on which the modification or revocation is issued, or on such later date as may be specified therein, and shall not be applied to importations of a good that have occurred prior to that date, unless the person

to whom the advance ruling was issued has not acted in accordance with its terms and conditions.

8. In accordance with each Party's procedures and laws, including any confidentiality requirements, each Party shall publish through the internet, its advance rulings.

Article 4.8: Penalties

1. Each Party shall maintain measures imposing criminal, civil or administrative penalties, whether solely or in combination, for violations of the Party's customs laws, regulations or procedural requirements.

2. Each Party shall ensure that penalties issued for a breach of a customs laws, regulations or procedural requirements are imposed only on the person(s) responsible for the breach under its laws.

3. Each Party shall ensure that the penalty imposed by its Customs Administration is dependent on the facts and circumstances of the case and is commensurate with the degree and severity of the breach.

4. Each Party shall ensure that if a penalty is imposed by its Customs Administration for a breach of a customs law, regulation or procedural requirement, an explanation in writing is provided to the person(s) upon whom the penalty is imposed specifying the nature of the breach and the laws, regulation or procedure used for determining the penalty amount.

Article 4.9: Release of Goods

1. Each Party shall adopt or maintain simplified customs procedures for the efficient release of goods in order to facilitate trade.

2. Pursuant to paragraph 1, each Party shall adopt or maintain procedures that:

(a) provide for the release of goods within a period no greater than that required to ensure compliance with its customs laws and regulations;

(b) provide for the electronic submission and processing of documentation and data, including manifests, prior to the arrival of the goods in order to expedite the release of goods from customs control upon arrival;

(c) allow goods to be released at the point of arrival without requiring temporary transfer to warehouses or other facilities; and

(d) require that the importer be informed if a Party does not promptly release goods, including, to the extent practicable and permitted by its laws, the reasons why the goods are not released and which agency, if not the Customs Authority, has withheld release of the goods.

3. Nothing in this Article requires a Party to release a good if its requirements for release have not been met nor prevents a Party from liquidating a security deposit in accordance with its law.

4. Each Party may allow, to the extent practicable and in accordance with its customs laws, goods intended for import to be moved within its territory under customs control from the point of entry into the Party's territory to another customs office in its territory from where the goods are intended to be released, provided the applicable regulatory requirements are met.

5. The Parties shall give appropriate priority to perishable goods when scheduling any examinations that may be required.

Article 4.10: Authorized Economic Operators

In order to facilitate trade and enhance compliance and risk management between them, the Parties agreed to continue the implementation of the MRA of their respective Authorized Economic Operator (AEO) programs.

Article 4.11: Border Agency Cooperation

Each Party shall ensure that its authorities and agencies responsible for border controls and procedures dealing with the importation, exportation, and transit of goods cooperate with one another and coordinate their activities in order to facilitate trade pursuant to this Chapter.

Article 4.12: Express Shipments

Each Party shall adopt or maintain expedited customs procedures for express shipments for at least those goods entered through air cargo facilities while maintaining appropriate customs control and selection. These procedures shall:

(a) provide for information necessary to release an express shipment to be submitted and processed before the shipment arrives;

(b) allow a single submission of information covering all goods contained in an express shipment, such as a manifest through, if possible, electronic means¹;

(c) to the extent possible, provide for the release of certain goods with a minimum of documentation;

(d) under normal circumstances, provide for express shipments to be released as soon as possible after submission of the necessary customs documents and the fulfillment of all applicable procedures and requirements, provided the shipment has arrived;

(e) apply to shipments of any weight or value recognizing that a Party may require formal entry procedures as a condition for release, including declaration and supporting documentation and payment of customs duties, based on the good's weight or value; and

(f) provide that, under normal circumstances, no customs duties will be assessed on express shipments valued at or below a fixed amount set under the Party's laws.²

Article 4.13: Post-clearance Audit

1. With a view to expediting the release of goods, each Party shall adopt or maintain post-clearance audit to ensure compliance with its customs and other related laws and regulations.

2. Each Party shall select a person or a consignment for post-clearance audit in a risk-based manner, which may include appropriate selectivity criteria. Each Party shall conduct post-clearance audits in a transparent manner. Where the

¹ Additional documents may be required as a condition for release.

² Notwithstanding this Article, a Party may impose customs duties, or may require formal entry documents, for restricted or controlled goods, set under the Party's domestic laws.

person is involved in the audit process and conclusive results have been achieved, the Party shall, without delay, notify the person whose record was audited of the:

- (a) results;
- (b) reasons for the results; and
- (c) person's rights and obligations.

3. The Parties acknowledge that the information obtained in post-clearance audit may be used in further administrative or judicial proceedings.

4. Each Party shall, wherever practicable, use the result of post-clearance audit in applying risk management.

Article 4.14: Review and Appeal

1. Each Party shall ensure that any person to whom it issues a determination on a customs matter has access to:

- (a) at least one level of administrative review of determinations by its Customs Authority independent³ of either the official or office responsible for the decision under review; and

- (b) judicial review of decisions.

2. Each Party shall ensure that its procedures for appeal and review are carried out in a non-discriminatory and timely manner.

3. Each Party shall ensure that an authority conducting a review or appeal under paragraph 1 notifies the person in writing of its determination or decision in the review or appeal, and the reasons for the determination or decision.

Article 4.15: Customs Cooperation

1. With a view to further enhancing customs cooperation and exchange of information between their customs authorities to secure and facilitate lawful trade,

³ The level of administrative review for the UAE may include the competent authority supervising the Customs Administration.

the Parties agreed to continue the implementation of the CMAA signed between them and to operate this Chapter effectively.

2. Assistance under this Chapter shall be provided in accordance with the domestic laws of the requested Party and the provisions of the CMAA signed between the Parties.

3. The Parties shall exchange official contact points with a view to facilitating the effective implementation of this Chapter.

Article 4.16: Confidentiality

1. Nothing in this Agreement shall be construed to require a Party to furnish or allow access to confidential information, the disclosure of which would impede law enforcement, or otherwise be contrary to the public interest, or which would prejudice the legitimate commercial interests of particular enterprises, public or private. Any information received under this Agreement shall be treated as confidential.

2. Each Party shall maintain, in accordance with its domestic laws, the confidentiality of information obtained pursuant to this Chapter and shall protect that information from disclosure that could prejudice the competitive position of the persons providing the information.

Article 4.17: Committee on Origin and Customs Procedures

1. The Parties hereby establish a Committee on Rules of Origin and Customs Procedures and Trade Facilitation composed of the customs and competent authorities of the Parties under the Joint Committee. Other competent authorities of the Parties may join the Committee if the Parties deem it necessary.

2. The Committee shall consider and, as appropriate, resolve any matter arising under this Chapter and Chapter X(Rules of Origin) by means of, inter alia, considering common approaches to the interpretation and implementation of those Chapters.

3. The Committee shall meet on request of either Party.