

CHAPTER 5

CUSTOMS ADMINISTRATION AND TRADE FACILITATION

ARTICLE 5.1

Scope

This Chapter shall apply to customs administration measures and performance of customs operations required for the release of goods traded between the Parties, in order to promote:

- a) transparency of customs procedures and customs formalities;
- b) trade facilitation and harmonisation of customs operations; and
- c) customs cooperation including exchange of information between the central customs authorities of the Parties.

ARTICLE 5.2

Definitions

For the purposes of this Chapter:

- a) **“customs administration”** means organisational and management activities of the customs authorities of a Party as well as activities carried out within the regulatory framework while implementing the objectives in the customs area;
- b) **“customs laws and regulations”** means any norm and regulation enforced by the customs authorities of a Party including laws, rulings, decrees, writs, rules and others;

- c) **“express consignments”** means goods delivered through high-speed transportation systems by any type of transport, using an electronic information management system and tracking the movement in order to deliver the goods to the recipient in accordance with an individual invoice for the minimum possible or a fixed period of time, except for goods sent by international post;
- d) **“inward processing”** means the customs procedure under which foreign goods can be brought into the customs territory of a Party conditionally relieved from payment of customs duties and taxes on the basis that such goods are intended for processing or repair and subsequent exportation from the customs territory of such Party within a specified period of time;
- e) **“outward processing”** means the customs procedure under which goods, which are in free circulation in the customs territory of a Party, may be temporarily exported for processing abroad and then re-imported with total exemption from customs duties and taxes; and
- f) **“temporary admission”** means the customs procedure under which foreign goods can be brought into the customs territory of a Party conditionally relieved totally or partially from payment of customs duties and taxes on the basis that such goods shall be re-exported within a specified period of time in accordance with the customs laws and regulations of such Party.

ARTICLE 5.3

Facilitation of Customs Administration Measures

1. Each Party shall ensure that the customs administration measures applied by its customs authorities are predictable, consistent and transparent.

2. Customs administration measures of each Party shall, where possible and to the extent permitted by its customs laws and regulations, be based on the standards and recommended practices of the World Customs Organization.
3. The central customs authorities of each Party shall endeavour to review their customs administration measures with a view to simplifying such measures in order to facilitate trade.

ARTICLE 5.4

Release of Goods

1. Each Party shall adopt or maintain the performance of customs procedures and operations for the efficient release of goods in order to facilitate trade between the Parties. This shall not require a Party to release goods where its requirements for the release of such goods have not been met.
2. Pursuant to paragraph 1 of this Article, each Party shall:
 - a) provide for the release of goods within a period of time no longer than 48 hours from the registration of a customs declaration except in the circumstances stipulated in the customs laws and regulations of the Parties; and
 - b) endeavour to adopt or maintain electronic submission and processing of customs information in advance of arrival of the goods to expedite the release of goods upon arrival.

ARTICLE 5.5

Risk Management

Customs authorities of the Parties shall apply a risk management system by means of a systematic assessment of risks to focus inspections on high-risk goods and simplify the application of customs operations on low-risk goods.

ARTICLE 5.6

Customs Cooperation

1. With a view to facilitating the effective operation of this Agreement, central customs authorities of the Parties shall encourage cooperation with each other on key customs issues that affect goods traded between the Parties.
2. Where a central customs authority of a Party in accordance with such Party's respective laws and regulations has a reasonable suspicion of an unlawful activity, such central customs authority may request the central customs authority of the other Party to provide specific confidential information normally collected in connection with the exportation and/or importation of goods.
3. A Party's request under paragraph 2 of this Article shall be in writing, specifying the purpose for which the information is sought and shall be accompanied by sufficient information to identify the concerned goods.
4. The requested Party under paragraph 2 of this Article shall provide a written response containing the requested information.
5. The central customs authority of the requested Party shall endeavour to provide any other information to the central customs authority of the requesting Party that would assist such central customs authority in determining whether imports from or exports to the requesting Party are in compliance with such Party's respective laws and regulations.

6. The central customs authorities of the Parties shall endeavour to establish and maintain channels of communication for customs cooperation, including establishing contact points that will facilitate the rapid and secure exchange of information, and improve coordination on customs issues.

ARTICLE 5.7

Information Exchange

1. In order to facilitate the performance of customs operations, to expedite the release of goods and to prevent violations of customs laws and regulations, the central customs authorities of the Parties shall create and implement electronic information exchange on a regular basis between them (hereinafter referred to as “electronic information exchange”) within five years from the date of entry into force of this Agreement.
2. On behalf of the Eurasian Economic Union, the Eurasian Economic Commission shall coordinate the creation and facilitate the operation of the electronic information exchange.
3. For the purposes of this Article, “information” means relevant and authentic data from customs declarations and transport documents.
4. Within one year from the date of entry into force of this Agreement, the central customs authorities of the Member States of the Eurasian Economic Union with the assistance of the Eurasian Economic Commission and the central customs authority of Viet Nam shall enter into consultations in order to develop electronic information exchange in accordance with paragraph 6 of this Article.
5. All requirements and specifications for the operation of electronic information exchange as well as specific contents of information to be exchanged shall be

set out in separate protocols between the central customs authorities of the Parties. Such information shall be sufficient for identification of transported goods and performance of efficient customs control.

6. The implementation of electronic information exchange shall be divided into the following stages:
 - a) not later than two years from the date of entry into force of this Agreement the authorities involved shall establish trial electronic information exchange between individual customs authorities of the Parties which are responsible for the customs clearance of particular goods traded between the Parties. Such individual customs authorities and such particular goods shall be determined by the central customs authorities of the Parties in a protocol stipulated in paragraph 5 of this Article;
 - b) not later than three years from the date of entry into force of this Agreement electronic information exchange shall cover goods for which the trade flow between the Parties will have increased more than 20 percent from the date of entry into force of this Agreement; and
 - c) not later than five years from the date of entry into force of this Agreement central customs authorities of the Parties shall provide the application of electronic information exchange, covering all goods traded between the Parties, for all customs authorities concerned.
7. Any information exchanged in accordance with the provisions of this Article shall be treated as confidential and shall be used for customs purposes only.
8. The operation of electronic information exchange shall not hinder the application or establishment of any information exchange based on international obligations of the Parties.

ARTICLE 5.8

Publication

1. The competent authorities of each Party shall publish, on the internet or through any other appropriate media, the customs laws and regulations of such Party.
2. The competent authorities of each Party shall designate or maintain one or more enquiry points to process enquiries from interested persons concerning customs issues, and shall publish on the internet information concerning such enquiry points.
3. The competent authorities of a Party shall inform the competent authorities of the other Party of the contact information of the designated enquiry points.
4. To the extent possible, each Party shall publish in advance its laws and regulations of general application governing customs issues that it proposes to adopt and shall provide interested persons with an opportunity to comment before adopting such laws and regulations.

ARTICLE 5.9

Advance Rulings

1. Customs authorities of the Parties shall provide any applicant registered in the importing Party in writing with advance rulings in respect of tariff classification, origin of goods and any additional matter which a Party considers appropriate. The Parties shall endeavour to adopt or maintain the issuance of advance rulings in respect of the application of the method to be used for determining the customs value.
2. Each Party shall adopt or maintain procedures for advance rulings, which shall:
 - a) provide that the applicant may apply for an advance ruling before the importation of goods;

- b) require that the applicant for an advance ruling provide a detailed description of the goods and all relevant information needed to process an advance ruling;
 - c) provide that its customs authority may, within 30 days from the date of application, request that the applicant provide additional information within a specified period of time;
 - d) provide that any advance ruling be based on the facts and circumstances presented by the applicant and any other relevant information available to its customs authority; and
 - e) provide that an advance ruling be issued to the applicant expeditiously, or in any case within 90 days from the date of the application or 60 days from the date of receipt of all necessary additional information.
3. A customs authority of a Party may reject requests for an advance ruling where the additional information requested by it in accordance with subparagraph c) of paragraph 2 of this Article is not provided within the specified period of time.
4. An advance ruling is valid for at least three years from the date of issuance, or such other period of time exceeding the specified period as required by the customs laws and regulations of the Parties.
5. A customs authority of a Party may modify or revoke an advance ruling:
- a) upon a determination that the advance ruling was based on false or inaccurate information;
 - b) if there is a change in the customs laws and regulations consistent with this Agreement; or
 - c) if there is a change in material facts or circumstances on which the advance ruling is based.

6. Subject to confidentiality requirements, the customs authorities of the Parties shall publish advance rulings.

ARTICLE 5.10

Customs Valuation

The customs value of goods traded between the Parties shall be determined in accordance with the customs laws and regulations of the importing Party based on the provisions of Article VII of GATT 1994 and the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994, in Annex 1A to the WTO Agreement.

ARTICLE 5.11

Tariff Classification

The Parties shall apply nomenclatures of goods based on the current edition of the Harmonized System to goods traded between them.

ARTICLE 5.12

Transit of Goods

The Parties may mutually recognise identification tools and documents applied by the Parties required for the control of goods and vessels as well as other means of transport in transit.

ARTICLE 5.13

Express Consignments

1. Customs authorities of the Parties shall provide expedited customs clearance for express consignments while maintaining appropriate customs control.
2. Express consignments shall be placed under the customs procedure in an expedited manner in accordance with the customs laws and regulations of the respective Party.

ARTICLE 5.14

Temporary Admission of Goods

In accordance with international standards, customs authorities of the Parties shall endeavour to facilitate the performance of customs operations for the customs procedure of temporary admission of goods.

ARTICLE 5.15

Inward Processing and Outward Processing

In accordance with international standards, customs authorities of the Parties shall endeavour to facilitate the performance of customs operations for temporary importation and exportation of goods for inward processing or outward processing.

ARTICLE 5.16

Confidentiality

All information provided in accordance with this Chapter, excluding statistics, shall be treated by the Parties as confidential in accordance with the respective laws and regulations of the Parties. It shall not be disclosed by the authorities of the Parties without the permission of the person or authority of the Party providing such information.

ARTICLE 5.17

Customs Agents (Representatives)

The customs laws and regulations of each Party shall enable declarants to submit their customs declarations without requiring mandatory recourse to the services of customs agents (representatives).

ARTICLE 5.18

Automation

1. The customs authorities of the Parties shall ensure that customs operations may be performed with the use of information systems and information technologies, including those based on electronic means of communication.
2. The central customs authorities of the Parties shall provide declarants with an opportunity to declare goods in electronic form.

ARTICLE 5.19

Review and Appeal

Each Party shall ensure the possibility of administrative review of customs decisions affecting rights of interested persons and judicial appeal against such decisions in accordance with the laws and regulations of the respective Party.

ARTICLE 5.20

Penalties

Each Party shall adopt or maintain measures that allow for the imposition of administrative penalties for violations of its customs laws and regulations during

importation and exportation, including provisions on tariff classification, customs valuation, determination of country of origin and obtaining preferential tariff treatment under this Agreement.